

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF MARYLAND
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA Criminal No. PWG-13-0202

5 v. Greenbelt, Maryland

6 LEONALDO HARRIS April 29, 2014

7 AND

8 JENNIFER SIMS,

9 Defendants. 9:00 a.m.

10 -----/

11 TRANSCRIPT OF MOTIONS HEARING
12 BEFORE THE HONORABLE PAUL W. GRIMM
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

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EXHIBIT

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Court Reporter Lisa K. Bankins RMR
 United States District Court
 6500 Cherrywood Lane
 Greenbelt, Maryland 20770

Proceedings recorded by mechanical stenography,
transcript produced by notereading.

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P R O C E E D I N G S

THE COURT: Call the case if you would, please.

MR. MITCHELL: Calling the case, United States versus Leonaldo Harris and Jennifer Sims, Criminal Case Number PWG-13-0202. Nick Mitchell and Bryan Foreman on behalf of the United States. And also seated at counsel table is Special Agent James Stull with HSI.

THE COURT: All right. Very good. And on behalf of the defendant, Mr. Harris?

MR. RAVENELL: Good morning, Your Honor. For the record, Ken Ravenell and Milin Chun on behalf of Mr. Harris, who is also present.

THE COURT: All right. I want to talk about scheduling because today and tomorrow, we finish all testimony with the exception of the expert. The expert is finished up next week. You argue and I rule. So I want to make it very clear, there will be no more -- absent extraordinary circumstances which will be difficult for me to foresee -- we're done with this evidence and the argument by the end of next week. That's necessary for scheduling. The fact that my schedule is going to prevent me from being available for a month and I want this resolved before that occurs. So we have today, we have tomorrow. What's the situation regarding the expert?

MR. RAVENELL: Your Honor, yesterday after

1 speaking to your chambers and getting the email and
2 speaking with the government, I reached out to
3 Mr. Brandman again and he will make himself available on 9
4 a.m. on the 15th, which is the time that your office gave
5 us.

6 THE COURT: Good.

7 MR. RAVENELL: He will be he said not in the
8 name of Dugon City or something like that. He said the
9 Wi-Fi connection there is not the best. So that's where
10 he will be and we will obviously do everything we can to
11 make sure that it works as well as we can.

12 THE COURT: Understood. Understood. All right.

13 MR. TUMINELLI: Your Honor, just for the record,
14 Ms. Sims and Mr. Tuminelli, her attorney, are here also.

15 THE COURT: Yes. I noticed that and it's good
16 to see that your wardrobe has augmented itself,
17 Mr. Tuminelli. And with that in mind, Mr. Ravenell, have
18 you a witness, sir?

19 MR. RAVENELL: Yes, Your Honor. We would call
20 Robert Wood.

21 MR. FOREMAN: Your Honor, before Mr. Wood takes
22 the stand, we'd like to get a proffer from counsel as to
23 what Mr. Wood is going to testify. It's my understanding
24 that he was not at this particular facility and so we just
25 have concerns as to what the relevance of Mr. Wood's

1 testimony would be.

2 THE COURT: He may not know. I don't know that
3 he has -- Mr. Ravenell has not had full access to all the
4 witnesses when he's tried in the past. With regard to
5 some of them, they haven't talked to him.

6 So if you know, Mr. Ravenell, you can shed some
7 light as to what you expect might happen, that would be
8 great. If not, then we'll move --

9 MR. RAVENELL: If we can keep him out for just a
10 second, judge?

11 (Pause.)

12 MR. RAVENELL: Your Honor, there are several
13 exhibits that have been mentioned regarding Mr. Wood
14 previously. There is an employee in the spotlight. This
15 was a seizure of narcotics --

16 THE COURT: Right.

17 MR. RAVENELL: -- in North Carolina based on his
18 drug awareness training that he received allegedly at the
19 company. And so this is regards to that particular
20 shipment you've already heard some testimony about.

21 THE COURT: All right. Let's bring in Mr. Wood
22 then.

23 THE CLERK: Sir, please come forward. Please
24 raise your right hand.

25 Thereupon,

DIRECT EXAMINATION OF WOOD

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ROBERT WOOD,

Having been called as a witness on behalf of the
defense and having been first duly sworn by the
Deputy Clerk, was examined and testified as follows:

THE CLERK: Please have a seat on the witness
stand. Sir, please speak directly into the microphone.
State your name and please spell your last name.

THE WITNESS: Robert Wood. W-O-O-D.

THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. RAVENELL:

Q Good morning, sir.

A Good morning.

Q Mr. Wood, my name is Ken Ravenell. I'm an
attorney for Mr. Harris. I don't believe you and I have
ever met. Is that correct?

A Correct.

Q All right. Would you tell the Court, sir, how
you are employed?

A I work for YRC.

Q Okay. And what do you do for YRC, sir?

A I'm a dock supervisor.

Q And what location do you work at YRC?

A Morrisville, North Carolina.

Q And is that near Raleigh, North Carolina?

1 A Correct.

2 Q And how long have you been in that position as a
3 dock supervisor at YRC?

4 A Well, since -- I worked for the company since
5 '97. But it was Roadway when I was first employed.

6 Q And you have been a dock supervisor since 1997?

7 A I've had several different titles during that
8 time period.

9 Q Tell me what those titles have been, sir.

10 A I have been a dock supervisor, an operations
11 manager, a dispatcher, a senior dock supervisor.

12 Q And how long have you been the senior dock
13 supervisor? Is that your current position?

14 A Yes, sir.

15 THE COURT: Just a ballpark --

16 THE WITNESS: Approximately eight years.

17 BY MR. RAVENELL:

18 Q Approximately eight years. Okay. And have you
19 always worked at the same YRC facility in Morrisville?

20 A No, sir.

21 Q Where else have you worked?

22 A We had a facility in Raleigh. I also worked in
23 Greenville, South Carolina and then back to the facility
24 in Raleigh. Then across town to the facility in
25 Morrisville.

1 Q And how long have you been at the facility at --
2 is it Morrisburg or Morrisville?

3 A Morrisville.

4 Q Okay. How long have you been at that facility?

5 A How long? About the last nine years.

6 Q Okay. Now in preparation of this hearing, sir,
7 have you discussed this case with anyone from the United
8 States Government?

9 A No, sir.

10 Q And have you discussed this case with anyone in
11 preparation to coming here?

12 A No, sir.

13 Q All right. You indicated that you had the
14 position as a dock supervisor -- is it as a dock
15 supervisor or a senior dock supervisor for the last nine
16 years? Is that correct?

17 A Senior.

18 Q Senior. Okay. Are you aware of the facts in
19 this particular case?

20 A No.

21 Q No. Let me draw your attention to a particular
22 document, sir. You were recently highlighted in YRC's
23 Employee in the Spotlight. Is that correct?

24 A Not recently at all, sir.

25 Q Not recently. When was that?

1 A Back in like approximately 1997.

2 Q '97. Okay. So it was 1997 when you were first
3 spotlighted in the -- what is it called? The Employee in
4 the Spotlight?

5 A The Spotlight Magazine.

6 Q Okay. All right. And that Employee in the
7 Spotlight magazine, what is that particularly? What is
8 the employee in the spotlight?

9 A When the company was Roadway, it was a magazine
10 that they would highlight different things that occurred
11 in the company at that time.

12 Q Okay. And what kind of things would be
13 highlighted in the Employee in the Spotlight?

14 A People getting promotions, different activities
15 going on in the company, truck driving championships,
16 things of that nature.

17 Q Okay. Now there was a representation by YRC
18 that you received drug awareness training and that part of
19 that drug awareness training was that there are shipments
20 of drugs coming out of California. Is that correct?

21 A I had training. I don't recall exactly -- I
22 mean this was -- I haven't had that training since I was,
23 you know, hired back in '97.

24 Q Okay. Are you familiar with something called a
25 security profile at the company, the company security

1 profile?

2 A No.

3 Q All right. When you had the training, were you
4 given certain indicators to look for in this drug
5 awareness training?

6 A That's -- like items that -- people paying for
7 items or they cost -- the shipping actually cost more than
8 the items are worth. Like a broken-down water heater, you
9 know, getting shipped across country. You know, things of
10 that nature.

11 Q Okay. Let me ask you. A corporate security
12 manager for YRC has previously testified that indicators
13 for suspicious packages includes -- I'm going to give you
14 a list -- the manner in which freight is packaged, the
15 failure to request a discount, the identity of the
16 shipper, the fact that the shipper and the consignee are
17 the same and non-existent or invalid contact number. Do
18 you agree that these are indicators that you are trained
19 to look for in identifying suspicious packages?

20 A Yes, sir.

21 Q As an employee of YRC, you are provided a
22 specific email address. Isn't that correct?

23 A Correct.

24 Q And what is your email address?

25 A Robertwood@YRCW.com.

1 Q And what type of work-related emails do you
2 receive on your email address, sir?

3 A Pretty much anything from instructions to
4 schedules. I mean pretty much anything to do with work.

5 Q Okay. Now you're required by YRC to regularly
6 read your emails and to respond to them. Is that right?

7 A Yes.

8 Q In fact that is set forth in the daily task that
9 you're required to review your emails and respond to them.
10 Is that right?

11 A Correct.

12 Q Okay.

13 MR. RAVENELL: May I approach, Your Honor?

14 THE COURT: Yes.

15 MR. RAVENELL: Court's indulgence.

16 THE COURT: Yes.

17 (Pause.)

18 BY MR. RAVENELL:

19 Q Let me show you what's been marked as Exhibit
20 Number 9.

21 THE COURT: Mr. Ravenell, was that previously
22 admitted, sir?

23 MR. RAVENELL: I thought it was. But you don't
24 have it.

25 THE COURT: Okay.

1 MR. RAVENELL: Your Honor, I would move Exhibit
2 Number 9.

3 THE COURT: Any objection?

4 MR. MITCHELL: No objection, Your Honor.

5 THE COURT: It's admitted.

6 (Defense Exhibit Number 9 was admitted into
7 evidence.)

8 BY MR. RAVENELL:

9 Q Sir, I'm going to leave with you a copy of what
10 is Exhibit 9.

11 THE COURT: Now, Mr. Wood, if you need a chance
12 to read that so you know what you're looking at, you take
13 your time and do that and let me know when you're done.
14 All right, sir?

15 BY MR. RAVENELL:

16 Q Now it's been represented by YRC that Exhibit 9
17 is a document sent to all YRC employees. Is that a
18 document that you have seen, sir?

19 A Yes, sir.

20 Q You have?

21 A Yes.

22 Q Okay. And did you receive that by email from
23 the company?

24 A I don't recall.

25 Q Okay. All right.

1 A I may have seen it by both.

2 Q By what, sir?

3 A By both. Either paper or email.

4 Q Okay. So both you were saying. By paper
5 actually having a hard copy of it and by email?

6 A Possibly. I just don't remember.

7 Q I understand. I'm just trying to clarify what
8 you meant by both.

9 A Okay.

10 Q Both being a hard copy and an email. Is that
11 correct?

12 A Correct.

13 Q All right. Now you said that you receive all
14 types of work-related emails from YRC. You met with a
15 private investigator who came down to meet with you, a
16 Shawn Gordon, near Raleigh, North Carolina a few -- about
17 a month or more ago. Is that correct?

18 A No.

19 Q A gentleman came to introduce himself as Shawn
20 Gordon, a private investigator?

21 A I don't recall that.

22 Q You don't recall. You don't recall a gentleman
23 coming down and speaking to you, sir, at your job and
24 introducing himself as an investigator in a case here in
25 Maryland?

1 A No, sir.

2 Q You don't have the recollection?

3 A No.

4 Q All right. Do you recall speaking to a person
5 and telling them that YRC would send out bulletins to all
6 terminals about an increase in drug trafficking from
7 certain areas and that many times these notices mentioned
8 shipments coming from southern California?

9 A No, sir.

10 Q You don't have that recollection?

11 A No.

12 Q Okay. Now did you receive security alert
13 bulletins from YRC?

14 A I don't recall.

15 Q You don't recall whether you ever received
16 security alert bulletins from your company?

17 A No.

18 Q Okay. Now if you don't recall, that's fine. I
19 mean I certainly can't make you recall. So looking back
20 at Exhibit 9, do you recall when you first received
21 Exhibit 9?

22 A No, sir.

23 Q Okay. There is a date at the top, it says
24 effective date, July 13, 2011 in the top left corner,
25 second block down. Do you see that?

1 A Yes, sir.

2 Q Does seeing that date help refresh your
3 recollection about the time period when you might have
4 received either by email or a hard copy or both Exhibit
5 Number 9, sir?

6 A Honestly, no, it doesn't.

7 Q Okay. All right. That's fair. And so let me
8 make very clear. If you don't remember, you just don't
9 remember. I just ask you to give us your best memory.

10 MR. RAVENELL: Court's indulgence, Your Honor.

11 THE COURT: Of course.

12 (Pause.)

13 MR. RAVENELL: Nothing further, Your Honor.

14 Thank you.

15 THE COURT: Cross-examination?

16 MR. MITCHELL: No cross, Your Honor.

17 THE COURT: Sir, a quick question. When
18 Mr. Ravenell asked you about you being in the spotlight,
19 the magazine that Roadway had --

20 THE WITNESS: Yes, sir.

21 THE COURT: -- back when you started, I
22 understood you to say that you were in that spotlight in
23 an issue that came out shortly after you started in 1997.
24 Is that right?

25 THE WITNESS: Yes.

1 THE COURT: Do you recall why you were in the
2 spotlight, what you had done?

3 THE WITNESS: Yes, sir.

4 THE COURT: What was that, sir?

5 THE WITNESS: There was a suspicious package at
6 the time and we contacted law enforcement which ended up
7 to be a large quantity of marijuana.

8 THE COURT: Okay. And now again, so I
9 understand, and the timeframe that you're thinking about
10 was sometime around 1997. Is that right?

11 THE WITNESS: Correct.

12 THE COURT: Okay. Thank you. First of all,
13 Mr. Ravenell, do you have any questions about my questions
14 and then Mr. Mitchell or Mr. Foreman, do you have any
15 questions based on mine.

16 MR. RAVENELL: I have none.

17 MR. MITCHELL: None from the government, Your
18 Honor.

19 THE COURT: May this witness be excused?

20 MR. RAVENELL: Yes.

21 MR. MITCHELL: Yes, Your Honor.

22 THE COURT: Thank you very much, sir. You're
23 free to go.

24 MR. RAVENELL: Your Honor, we would next call
25 Trooper Scott Fidler. Thank you, sir.

DIRECT EXAMINATION OF FIDLER

1 THE CLERK: Sir, please come forward. Please
2 raise your right hand.

3 Thereupon,

4 TROOPER SCOTT FIDLER,
5 having been called as a witness on behalf of the
6 defense and having been first duly sworn by the
7 Deputy Clerk, was examined and testified as follows:

8 THE CLERK: Please have a seat on the witness
9 stand. Sir, please speak directly into the microphone.
10 State your name and please spell your last name.

11 THE WITNESS: Scott Fidler. F-I-D-L-E-R.

12 THE CLERK: I'm sorry, sir.

13 THE WITNESS: F-I-D-L-E-R.

14 THE CLERK: Thank you.

15 MR. RAVENELL: And, Your Honor, while I'm
16 questioning, may Ms. Chun approach the clerk and get some
17 other exhibits while I continue?

18 THE COURT: Of course.

19 MR. RAVENELL: Thanks.

20 DIRECT EXAMINATION

21 BY MR. RAVENELL:

22 Q Good morning, sir.

23 A Good morning, counselor.

24 Q Trooper Fidler, you are a Pennsylvania state
25 trooper. Is that correct?

1 A I am.

2 Q And how long have you been with the Pennsylvania
3 State Police?

4 A Since 2003.

5 Q And have you always been a trooper with the --
6 always been a trooper with the state police?

7 A I'm a trooper with the state police. Right.

8 Q And you have been a trooper since 2003?

9 A Since 2004 after I graduated the academy.

10 Q Okay. Thank you. And what are your duties as a
11 Pennsylvania state trooper?

12 A I'm currently assigned to Central Interdiction
13 Unit. I have been there since 2012. During my time
14 there, I've been signed to investigate mostly drug
15 investigations that involve packages and parcels, hotels
16 and motels and train stations and bus stations.

17 Q Okay. Let me make sure I get that. Packages
18 and parcels?

19 A Right.

20 Q And you said motels and hotels?

21 A Correct.

22 Q And trains and bus stations?

23 A Right.

24 Q So that means you were interdicting at those
25 types of locations?

1 A Right.

2 Q Okay. Looking for packages that had narcotics
3 in them?

4 A Narcotics, large sums of money, contraband.

5 Q Okay. Got you. And you had been doing that
6 since 2012?

7 A Since 2012. Prior to that, I was a undercover
8 officer and did vice investigations for about four and a
9 half years. And prior to that, I spent about five years
10 regular patrol duties.

11 Q Sir, in preparation of this hearing, have you
12 discussed this case with anyone from the United States
13 Government?

14 A Yes.

15 Q And who have you discussed it with?

16 A U.S. Attorney Nicolas Mitchell.

17 Q And how many times have you discussed this case
18 with Mr. Mitchell?

19 A What was the question?

20 Q How many times have you discussed this case with
21 Mr. Mitchell?

22 A How much time?

23 Q How many times?

24 A I believe once we spoke about on the telephone
25 about preparation for trial. And then once we spoke about

1 being served with a defense subpoena from you.

2 Q Okay. And what did you discuss with
3 Mr. Mitchell about being served with a defense subpoena?

4 A I just notified him, we had a brief conversation
5 that I was served and that I would be a witness for you.

6 Q Okay. And what did you discuss in your
7 conversation about preparation for the trial with
8 Mr. Mitchell?

9 A Briefly, we spoke about April 17, 2013 which
10 involves this case and my role in the investigation.

11 Q Okay. Let's talk about this case and your role.
12 You are obviously aware of the facts of this case. Is
13 that correct?

14 A Some of them, yes.

15 Q All right. And you said you were involved on
16 April the 17, 2013. Is that right?

17 A Correct.

18 Q And were you a responding officer to YRC on
19 April the 17, 2013?

20 A I was.

21 Q All right. Were you the first officer on the
22 scene?

23 A I believe we all arrived together. It was
24 myself, Corporal Rudy.

25 Q I'm sorry. Corporal?

1 A Corporal Rudy. R-U-D-Y. And Trooper Overcash.
2 O-V-E-R-C-A-S-H.

3 Q And who called you to respond to YRC on April
4 the 17, 2013?

5 A I was directed to go there from my corporal. I
6 don't know who called him.

7 Q And who is your corporal?

8 A Corporal Todd Rudy. T-O-D-D. R-U-D-Y.

9 Q Okay. Now do you know a Clifford Shaw, who is
10 an ex-PA state trooper and is currently a senior corporate
11 security investigator for YRC?

12 A Yes. I just met him at the last hearing we had
13 here.

14 Q Was that in January or when you said the last
15 hearing, you mean last week?

16 A Last week or the week before.

17 Q Okay. Are you familiar with a Van Jackson of
18 the Pennsylvania State Police?

19 A Yes.

20 Q And who is Van Jackson?

21 A He works in Pennsylvania. As far as
22 interdiction units, we have three teams. We have eastern,
23 central and western. I work in central, which covers the
24 Harrisburg area. Van Jackson covers the eastern team
25 which is the Philadelphia area.

1 Q Now Mr. Shaw previously testified that he has a
2 five to six-year collaborative relationship with
3 Mr. Jackson and with the Pennsylvania State Police. Are
4 you familiar with that relationship that YRC has with a
5 local law enforcement?

6 A No.

7 MR. MITCHELL: Objection, Your Honor.
8 Mischaracterizes the prior testimony.

9 THE COURT: Well, he said no. So objection is
10 overruled.

11 BY MR. RAVENELL:

12 Q Did you say no, you're not familiar with the
13 relationship?

14 A No.

15 Q Okay. Have you been called to YRC before April
16 the 17, 2013 for a contraband seizure?

17 A Before the 17th?

18 Q Yes.

19 A No.

20 Q Have you been called to YRC since April 17, 2013
21 for a contraband seizure?

22 A No.

23 Q Okay. How many times have you been to the YRC,
24 Carlisle/Harrisburg terminal?

25 A After the -- in total?

1 Q In total. Yes.

2 A Maybe 15 times.

3 Q 15 times?

4 A Ballpark.

5 Q All right. And when was the first time you went
6 to YRC, Carlisle/Harrisburg?

7 A That day.

8 Q April 17, 2013?

9 A Right.

10 Q And what was the reason that you had been to the
11 YRC facility in Harrisburg on 14 times approximately since
12 then?

13 A Because of the investigation.

14 Q Tell me what you mean by because of the
15 investigation that took you there about 14 times.

16 A Well, the state police obviously found a
17 substantial narcotics seizure there on the 17th of April.
18 So we maintained contact with YRC and checked back with
19 them on a routine basis.

20 Q So on this routine basis, how often do you check
21 back with YRC?

22 A Depending on our schedules and the jobs that
23 we're doing, we're kind of spread across the state, but we
24 check in with them maybe once every couple of weeks.

25 Q Now when you say we, who does the we include?

1 A It would be myself, Trooper Overcash and Trooper
2 Reed.

3 Q Now you've indicated you've been back to the
4 location about 14 times. Have these other troopers that
5 you've mentioned also been back to YRC since April 17,
6 2013?

7 A They have. But not always with me. You know,
8 they've gone probably fewer times than I have.

9 Q They have gone on occasions when you haven't
10 gone?

11 A I don't believe so.

12 Q Okay. So on the 14 times that you have gone,
13 were there additional times where either of those troopers
14 have gone without you?

15 A I don't believe so.

16 Q All right. So each time someone from the
17 Pennsylvania State Police have gone to YRC since April the
18 17, 2013, you have been part of that group?

19 A Right.

20 Q Have you gone alone on occasions?

21 A Yes.

22 Q I'm sorry?

23 A Yes.

24 Q Have you gone alone on most occasions on the 14?

25 A Some. I can't ballpark it, counselor. Some I

1 have and some I haven't.

2 Q Now you wrote a report about this incident that
3 occurred on April the 17, 2013. Is that right?

4 A Correct.

5 Q Do you recall what you were told as the reason
6 you were to go to YRC on April the 17, 2013 by your
7 corporal?

8 A I believe I was told that there was a drug
9 package found at the YRC facility.

10 Q And when you arrived at the YRC facility on
11 April 17, 2013, who did you meet with?

12 A Met with the terminal manager at that time.
13 Mark Gladfelter.

14 Q And did you know Mr. Gladfelter prior to
15 April 17, 2013?

16 A No.

17 Q What were you told by Mr. Gladfelter about the
18 discovery of the package?

19 A That one of his weights and measures people had
20 found two pallets and they opened one of the pallets to
21 inspect it based on some sort of weights and measures
22 discrepancy and that the inspector found a box of what he
23 believed to be marijuana.

24 Q Now you wrote a report. Right?

25 A I did.

1 Q And you wrote down in the report what you were
2 told as the reason why the person opened the package. Is
3 that correct?

4 A I did --

5 MR. MITCHELL: Your Honor, the government would
6 object to this line of questioning. It's unclear exactly
7 where we're going here and this could be borderline a
8 Franks hearing at this juncture. It's unclear again where
9 defense counsel is going.

10 THE COURT: I think -- if I'm wrong,
11 Mr. Ravenell will tell me. When we had the first hearing
12 and the supervisor who actually opened the package
13 testified, he gave testimony with regard to why it was he
14 did so. The defense contended that that testimony was not
15 consistent with other versions of that and that was an
16 issue. I have already ruled on the Franks hearing. I'm
17 not allowing any challenge to the underlying warrants or
18 the application for that. I've gone beyond that. So
19 we're not at Franks.

20 The question is what he was told as the basis
21 for his probable cause statement, no doubt, in connection
22 with the search and seizure warrant. And since the
23 defense has raised an issue about what information was the
24 motivating information on behalf of the YRC employee who
25 first opened the package, it is appropriate to inquire

1 into what information was told to the trooper who
2 responded to the call from YRC and then took the actions
3 that he took in connection with his official duties. So
4 for that reason, it seems to me that the examination is
5 appropriate. Is that the direction you're going, Mr.
6 Ravenell?

7 MR. RAVENELL: Absolutely, Your Honor.

8 THE COURT: All right. You may proceed.

9 MR. RAVENELL: Thank you.

10 BY MR. RAVENELL:

11 Q Do you recall where the pallets were located
12 when you arrived, sir, at the YRC facility on April 17,
13 2013?

14 A Was I told where they were?

15 Q Do you recall where they were located?

16 A Yes.

17 Q All right. And where were they?

18 A In the dock area of the facility.

19 Q You said it was in the dock area, sir?

20 A Right.

21 Q Now let me show you a copy of your report. Is
22 this a copy of the report that you wrote regarding the
23 April 17 incident, sir?

24 A It is.

25 THE COURT: And, Trooper Fidler, if you need to

1 look at that to make sure you know what it says before you
2 answer questions about it, you can take whatever time you
3 need to read it.

4 THE WITNESS: It's my report, counselor.

5 THE COURT: Now has this already been
6 introduced, Mr. Ravenell?

7 MR. RAVENELL: This is not, Your Honor. I'd
8 like to move this in, judge. So it's not in --

9 THE COURT: Any objection?

10 MR. RAVENELL: -- as evidence yet. I do want to
11 ask -- maybe it should be used more to refresh
12 recollection right now. It's not in yet. I may or may
13 not move it.

14 THE COURT: All right. Very good.

15 MR. RAVENELL: I'm not sure that I need it in.
16 But we'll see where we go.

17 THE COURT: All right. It's not being offered
18 in so I don't need to get your --

19 MR. RAVENELL: Yes. I'm not offering it, judge.

20 BY MR. RAVENELL:

21 Q Now do you recall who took you down to the dock
22 area if anyone once you arrived on April 17, 2013?

23 A I believe Mr. Gladfelter took us out.

24 Q I'm sorry?

25 A Mr. Gladfelter took us out to the area.

1 Q Okay. And would you agree that this was a large
2 seizure of narcotics?

3 A Yes.

4 Q Now in your report, did you indicate what you
5 were told about the package by Mr. Gladfelter?

6 A Did I note what I was told by Mr. Gladfelter in
7 my report?

8 Q Yes. About the packaging.

9 A I just noted that he found two suspicious
10 parcels.

11 Q Okay. And if you need your report to refresh
12 your recollection, do that and then tell me what it is
13 that Mr. Gladfelter told you about the packages when you
14 arrived, sir.

15 A Would you like me to read it?

16 Q Well, tell me first whether if you review it,
17 whether it refreshes your recollection about what
18 Mr. Gladfelter told you. So you can read it to yourself
19 first and then tell me when you have done that and tell me
20 whether that refreshes your recollection about what
21 Mr. Gladfelter told you.

22 A I have read it and it refreshes my recollection.

23 Q Okay. So what did Mr. Gladfelter tell you about
24 the package when you arrived?

25 A I believe he said there was suspicious packages

1 because they were misclassified.

2 Q Misclassified. As rims versus wheels, do you
3 recall those references?

4 A I don't recall. I believe it was more of a
5 weight classification than product.

6 Q Did you write anything in here about weights?

7 A No.

8 Q Okay. Is there weights mentioned at all in your
9 report about what the classification were -- what the
10 issues were?

11 A I don't believe so.

12 Q Okay.

13 A Excuse me.

14 Q So -- I'm sorry.

15 A I just cleared my throat. I'm sorry, counselor.

16 Q Okay. So did you document at any point any
17 reference to weights?

18 A No.

19 Q Okay. And this was a report you wrote on April
20 the 17, 2013?

21 A I wrote it shortly thereafter.

22 Q Okay. And one of the reasons you wrote it is so
23 that you would be able to recall what happened on that
24 date?

25 A Yes.

1 Q And one of the reasons you wrote it for
2 recollection purposes because you are involved in many
3 investigations and often these matters come up for trial
4 sometimes much longer after the incident occurred. Is
5 that right?

6 A Yes.

7 Q Okay. Now in your report, did you note that the
8 boxes were branded with certain names? Do you recall
9 that?

10 A I did.

11 Q All right. And do you recall what the names
12 were?

13 A I do. Some of the boxes were branded as
14 Forgiato, Borghini --

15 THE COURT: Could you spell them? To the extent
16 you can spell them, trooper, spell them please.

17 THE WITNESS: Forgiato. F-O-R-G-I-A-T-O.
18 Second one, Borghini. B-O-R-G-H-I-N-I. And the last is
19 Victor. V-I-C-T-O-R.

20 BY MR. RAVENELL:

21 Q Do you recall how the boxes were listed on the
22 outside of the boxes?

23 A As far as the writing, counselor? I don't
24 understand.

25 Q Yes. Were both pallets wrapped in plastic and

1 contained cardboard boxes were listed as rims on the bill
2 of lading? Do you recall if there were rims on the bill
3 of lading as it was listed?

4 A Yes, I believe there were.

5 Q Okay. And this was something that you noticed
6 on the bill of lading?

7 A Yes.

8 Q You actually inspected the bill of lading?

9 A Yes.

10 Q Okay. Now in your report -- you can correct me
11 if this is wrong -- you mentioned that the shipper had
12 prepaid the freight and paid extra to have it delivered
13 before 5 p.m. on April the 18, 2013. Do you have a
14 recollection of that being on the bill of lading?

15 A I'd have to see the bill of lading.

16 Q Okay. Would you look at your report and see if
17 it refreshes your recollection that that is what occurred?

18 A I indicated that the shipper had prepaid to have
19 it delivered before 5 p.m. on the 18th. But I don't know
20 if that was on the bill of lading or if that was told to
21 me through Mr. Gladfelter.

22 Q Okay. So you don't recall where you got -- at
23 this point where you got that information. It could have
24 been from the bill of lading or a person telling you?

25 A Right.

1 Q But that's information that you got on that date
2 that this person, the shipper, had paid for the freight
3 and had paid extra to have it delivered before 5 p.m. on
4 April 18, 2013?

5 A Right.

6 Q Okay. Why was that included in your report,
7 that information, that the shipper had paid extra to have
8 it delivered before 5 p.m. on April 18, 2013?

9 A Sometimes through my experience, a freight and
10 packages and parcels, individuals pay more to have it
11 delivered quicker, which means that there's less chance of
12 it to be intercepted through law enforcement.

13 Q So if you learn that someone had paid extra to
14 have it delivered, have packages delivered, then that
15 would be sometimes an indicator that this might be some
16 illegal activity going on?

17 A Correct.

18 Q Got you. Now you indicated that you were told
19 that Mr. Arrowood or the dock worker had opened one of the
20 pallets?

21 A I was told that. Yes.

22 Q Okay. And when you went down to the dock, was
23 one of the pallets open?

24 A Yes.

25 Q Okay. And the other was not opened?

1 A Correct.

2 Q Okay. Do you know Mr. Arrowood, sir?

3 A No.

4 Q Well, not did you know him. Do you know him
5 now?

6 A I currently know him now. I first met him back
7 then.

8 Q All right. You didn't know him as of April 17,
9 2013, but you do know him now.

10 A Right.

11 Q Got you. You would agree that Mr. Arrowood is a
12 paid source for the Pennsylvania State Police. Correct?

13 A Yes.

14 Q Correct?

15 A Yes.

16 Q I'm sorry? I didn't hear you. We were both
17 talking. Is Mr. Arrowood a paid source --

18 A Yes.

19 Q -- for the Pennsylvania -- please let me finish
20 the question so we're not both speaking. All right. And
21 I'm going to just ask it again so we'll have it clear for
22 the record. Is Mr. Arrowood a paid source for the
23 Pennsylvania State Police, sir?

24 A Yes.

25 Q All right. When did Mr. Arrowood become a

1 source for the Pennsylvania State Police?

2 A January 27th of this year.

3 Q And who signed him up as a source for the
4 Pennsylvania State Police?

5 A I did.

6 Q And how was that done?

7 A Through some forms, state police forms.

8 Q Tell me about those state police forms, sir.

9 MR. MITCHELL: Your Honor, the government would
10 object to relevance.

11 THE COURT: Overruled.

12 BY MR. RAVENELL:

13 Q Tell me about the form. Describe those forms
14 and what the forms entail.

15 A Basic forms of names, dates of birth,
16 signatures, conditions of an agreement between we, the
17 state police and Mr. Arrowood.

18 Q An agreement between Mr. Arrowood and the
19 Pennsylvania State Police?

20 A Yes.

21 Q And what does the agreement state?

22 A I don't have it in front of me. It's roughly
23 two pages. But it basically says that Mr. Arrowood
24 doesn't portray himself as a police officer, doesn't carry
25 a weapon when he's around the state police, that he won't

1 break the law. Any conditions of -- any violations of
2 these conditions and there's a few other ones will
3 terminate his agreement.

4 Q Okay. And those are some of the don'ts. What
5 does he do as a source for the state police?

6 A Provide state police information.

7 Q What kind of information is he to provide the
8 state police?

9 A Information about possible drug trafficking,
10 possible money laundering, any information that would aid
11 us in investigations.

12 Q And was anyone else involved other than you in
13 signing Mr. Arrowood up as a paid source for the
14 Pennsylvania State Police?

15 A Yes. Trooper Jason Reed.

16 Q And do you have copies of those documents
17 somewhere that Mr. Arrowood signed?

18 A I do.

19 Q And where would those be?

20 A At the state police.

21 Q And how was what Mr. Arrowood paid as a source
22 decided?

23 A As far as cash, check or how much?

24 Q How much? Let's start with how much.

25 A Through my supervisor, my unit supervisor,

1 Corporal Doug Howell.

2 Q So what is the process on which Corporal Howell
3 goes through in deciding how much one is paid as a source?

4 A It depends on the investigation, how big or how
5 small the investigation is.

6 Q And what is Mr. Arrowood told about how the
7 decision is made on how he's paid, what he's paid?

8 A What was he told?

9 Q Yes.

10 A He wasn't told anything about that.

11 Q Was he told he was being paid?

12 A Yes.

13 Q Was he told how he was being paid?

14 A As far as the amount or?

15 Q Let's start with the form.

16 A Okay.

17 Q Was he told what form he would be paid in?

18 A Yes. He signs a form as a receipt of the
19 payment that he has gotten.

20 Q And is he told how the amount is determined that
21 he will get?

22 A Our sources are paid strictly in cash and
23 they're not told how much they're going to get paid for
24 whatever reason. They are just told they get paid.

25 Q Does the form that he signed, the agreement that

1 he signed talk about payment?

2 A Yes.

3 Q What information is set forth in the agreement
4 about payment?

5 A I don't have the form in front of me,
6 counselor --

7 Q Sure.

8 A -- but it's something to the effect that any
9 cooperation and all payment rendered at that time that the
10 state police is not liable for any more.

11 Q The state police is what?

12 A Is not liable for any more money. That's
13 payment and that's the end of the transaction.

14 Q Meaning that once you are paid, you don't get
15 more?

16 A Right.

17 Q Okay. Now you said that one of the things that
18 determines amount one is paid is how big the seizures are?

19 A Right.

20 Q What else determines how much a source is paid?

21 A Their level of cooperation in the investigation.
22 If they take an active role, that would be one reason that
23 they get paid more. If it's just a simple phone call to
24 the state police, then our supervisor would make the
25 recommendation as to what they get paid.

1 Q Was anyone else from YRC signed up as a source
2 of information of YRC -- excuse me -- by the Pennsylvania
3 State Police other than Mr. Arrowood?

4 A No.

5 Q Who knows that Mr. Arrowood is a paid source
6 with the Pennsylvania State Police?

7 A I believe just Mr. Arrowood.

8 Q Does anyone at YRC know that he's a paid source
9 with the Pennsylvania State Police?

10 A A supervisor there might know that he had gotten
11 paid as a result.

12 Q Who is the supervisor?

13 A I don't recall his name at this time. He's a
14 dock supervisor.

15 Q Is it Mark Gladfelter?

16 A No.

17 Q Actually, he's left the company. So it wouldn't
18 be him.

19 A Right.

20 Q So do you know the person who was --

21 A I don't and I don't want to guess.

22 Q Don't guess. If you don't know, you don't know.
23 Did the police contact Mr. Arrowood about being a source
24 or did he contact the police?

25 A I contacted him.

1 Q And when did you contact him?

2 A Right around the 27th of January of this year.

3 Q So that was about 14 days after Mr. Arrowood
4 testified in this court on January 13th of 2014?

5 A I don't know if he testified or not, counselor.

6 Q Were you not present previously when he had
7 testified?

8 A No.

9 Q You were not aware that he testified in this
10 case?

11 A I was not aware of that hearing on the 13th.

12 Q You were not aware --

13 A I was here for the hearing about two weeks ago.

14 Q So are you telling the Court that you were not
15 aware that Mr. Arrowood ever testified in this case?

16 A No.

17 Q Mr. Arrowood never told you he testified in this
18 case?

19 A Yes. He told me he testified later on. Yes.

20 Q When did he tell you that he testified?

21 A It was right around that timeframe of when we
22 signed him up as an informant or a source.

23 Q Right around the January 27th timeframe?

24 A Right.

25 Q All right. You said you visited the facility

1 at, the YRC Harrisburg facility about 14 times since
2 April 17, 2013. Did you make any other seizures at that
3 facility since April 17, 2013?

4 A No.

5 Q When you went to the facility on these prior, on
6 these 14 or so occasions after April 17, 2013, did you
7 meet with Mr. Arrowood on any of those occasions?

8 A I saw him briefly on a couple of occasions, but
9 not really.

10 Q So when Mr. Arrowood was signed up as a source,
11 you said you contacted him. How did you go about
12 contacting him and tell us about that?

13 A I visited YRC and met with him there.

14 Q And when was this? In January?

15 A Of this year. Yes.

16 Q And tell me about the meeting that you had with
17 Mr. Arrowood where you signed him up as a source?

18 A I indicated to him that I would like to sign him
19 up as a source. Based upon what he had seen in the past,
20 he could assist the state police --

21 Q Let me stop you for a second. What had he seen
22 in the past that you wanted him to sign up as a source?

23 A The suspicious packages that were involved in
24 this case.

25 Q Okay. What about the suspicious packages of

1 what he had seen other than they were suspicious packages
2 that led you to want to sign him up as a source?

3 A He has many years of experience in the freight
4 business. We routinely go to freight terminals and
5 explain the different trends and things that we as
6 interdiction officers see and we pass along some of that
7 information.

8 Q Okay. And when you say we routinely go to these
9 freight businesses and explain what you see, tell me what
10 freight businesses you have gone to and explained the
11 trends regarding drug trafficking?

12 A Strictly freight?

13 Q Yes. Start with freight and you can expand.

14 A YRC of course, Estes, Old Dominion, Keen
15 Transport. Just to name a few just off the top of my
16 head.

17 Q All right. And are you the only state
18 Pennsylvania state trooper who goes to these facilities
19 and carries and explain the trends in drug trafficking?

20 A No.

21 Q Does Van Jackson do that as well?

22 A I believe he does on the eastern side of
23 Pennsylvania.

24 Q Okay. And do you know whether Clifford Shaw
25 works on the eastern side of Pennsylvania?

1 A I don't. I believe he works all over the
2 nation.

3 Q All over the nation. Okay. Are there YRC
4 facilities on the eastern part of Pennsylvania?

5 A I don't know, counselor.

6 Q You don't know. And you said you explained --
7 go back to that -- you explained about the trends. Tell
8 me exactly what it is that you explained to these carriers
9 and employees of the carriers about what their trends are.
10 Tell me about that.

11 A Sometimes we'll see freight wrapped in certain
12 ways. Like I said before, it's normally prepaid,
13 sometimes with cash. Shipped to or from third party
14 facilities. Like a third party shipper would be an
15 indicator and routinely, we see dock drop-offs and dock
16 pickups. Some of the indicators that we see.

17 Q So these are some, but not all the indicators
18 that you tell the carriers about and the employers of the
19 carriers about?

20 A Right.

21 Q Now did you visit YRC Harrisburg terminal in
22 December of 2013?

23 A Probably. That was right around the time that
24 we were starting to go over to YRC.

25 Q Around the time you were starting to do what?

1 A To really go to YRC on a frequent basis.

2 Q Okay. And did you meet with Mr. Arrowood when
3 you went there to YRC in December of 2013?

4 A I don't recall the specific dates when I met
5 with him.

6 Q Now if Mr. Arrowood testified that you did meet
7 with him, would that refresh your recollection?

8 A I could have met with him in December,
9 counselor. I don't know if it was December or not.

10 Q Okay. When you met with Mr. Arrowood the next
11 time after the April 17, 2013 matter, when was that?

12 A I can't even recall. I don't know.

13 Q Well, would it have been days, weeks, months?

14 A Months probably.

15 Q Do you remember how, best of your recollection,
16 how many months?

17 A I believe we stopped back to YRC shortly after
18 the freight was seized just to touch base with the YRC
19 people. I don't recall if it was weeks or months. It was
20 a short time span that we went back there. I don't recall
21 when.

22 Q Did you meet with Mr. Arrowood during that time
23 period?

24 A Yes. I probably spoke with him, but nothing at
25 length.

1 Q Okay. And do you recall what you had spoken to
2 him about when you went back a short time after April 17,
3 2013?

4 A I don't.

5 Q Did you ever discuss with Mr. Arrowood that the
6 shipment seized on April 17, 2013 contained marijuana?

7 A Yes.

8 Q When did you have that discussion with him?

9 A Shortly after I returned to the freight facility
10 after the seizure was made.

11 Q So shortly after April the 17, 2013?

12 A Right.

13 Q What did you tell him other than that the
14 shipment contained marijuana?

15 A That it was -- we had seized it and then it was
16 sent onto Maryland where several arrests were made.

17 Q What else did you tell him?

18 A That's all I told him I believe.

19 Q Did you meet with Mr. Arrowood alone or did you
20 meet with other people as well at YRC when you returned
21 shortly after April 17, 2013?

22 A I'm not sure if I was alone or not.

23 Q Did you meet with anyone else from YRC other
24 than Mr. Arrowood on that occasion?

25 A I can't remember, counselor.

1 Q Did you write any of these things down when you
2 were going back to YRC and meeting with Mr. Arrowood? Did
3 you write any of this down?

4 A No.

5 Q Did you take any notes at all?

6 A No.

7 Q When you met with Mr. Arrowood back in April of,
8 sometime shortly after April the 17, 2013, did you discuss
9 with him the possibility that he would become a source for
10 the Pennsylvania State Police then?

11 A I don't believe I did at that time.

12 Q You're not sure?

13 A I can't remember.

14 Q When you met with him approximately December of
15 2013, did you talk with him then about potentially coming
16 a source for the Pennsylvania State Police?

17 A I believe I did around that timeframe.

18 Q Okay. So when you spoke with Mr. Arrowood in
19 December of 2013, did he indicate to you that he was being
20 called as a witness in this case?

21 A I believe he indicated that he had a subpoena to
22 serve or a private investigator was at his house. I don't
23 know if he told me that he got a subpoena served on him or
24 if he had to testify. I don't recall that.

25 Q But he told you he had been served with a

1 subpoena in this case by --

2 A I believe so.

3 Q -- a private processor --

4 A Right.

5 Q -- or a private investigator? So when you
6 discussed with Mr. Arrowood in December of 2013 about
7 potentially becoming a source, what did he say?

8 A I don't recall, counselor.

9 Q You didn't write that down either?

10 A No.

11 Q Well, let me see. Did he say, yes, I would be a
12 source?

13 A I don't remember the exact conversation when I
14 met with him in December, the date that you're giving me
15 out to me. The date that I actually approached him was
16 the 27th of January of this year.

17 Q I understand about that.

18 A That's when he actually agreed.

19 Q Let me let you finish. Go ahead.

20 A As far as when I talked to him about being a
21 source prior to that, I don't recall.

22 Q Okay. Let's go back to that. I have that on at
23 least January 27th is when you talked to him and signed
24 him up?

25 A Right.

1 Q So I'm talking now about the time period which
2 was in December of 2013. When you talked to him then
3 about potentially being a source, do you recall what you
4 said to him? Let's start there.

5 A No.

6 Q Do you recall anything he said to you when you
7 talked to him in December 2013 about being a source?

8 A No.

9 Q Do you recall whether he said I'll think about
10 it?

11 A I don't recall, counselor.

12 Q Was anyone else with you when you had this
13 conversation with Mr. Arrowood about December 2013 about
14 him potentially becoming a source for the Pennsylvania
15 State Police?

16 A I don't recall. It could have been Jason Reed,
17 my partner.

18 Q You would agree that confidential sources are
19 certainly useful and helpful tools for law enforcement to
20 combat drug smuggling. Correct?

21 A I would.

22 Q So what determines whether someone becomes a
23 source for the Pennsylvania State Police?

24 A If they would like to cooperate with the state
25 police in any sort of drug investigations.

1 Q If they what, sir?

2 A If they would like to cooperate with the state
3 police in any sort of drug investigations.

4 Q And what are the requirements on becoming a
5 source for the Pennsylvania State Police?

6 A We'd have to verify their identification, who
7 they are, run their criminal history, make sure that we
8 are allowed to work with them. Certain offenders we can't
9 work with. And then we would try to corroborate some of
10 the information that they would provide to us.

11 Q Now, sir, earlier when I asked you about Mr.
12 Arrowood testifying, you said you were not aware that Mr.
13 Arrowood had testified. Then a moment ago, you told me
14 that you were aware that he had gotten a subpoena and he
15 actually shared with you that he had gotten a subpoena
16 back in December of 2013. Correct?

17 A That's correct.

18 Q All right. So you in fact were aware that he
19 had been subpoenaed as a witness to testify. Correct?

20 A I was aware that a private investigator had
21 served him paperwork. Yes.

22 Q With a subpoena to testify. Correct?

23 A Yes, sir.

24 Q All right. So while you discuss with Mr.
25 Arrowood back in December of 2013 about being a potential

1 source, you and Mr. Arrowood waited about 14 days after he
2 testified and then you officially signed him up as a
3 source. Is that right?

4 A If it's 14 days, then yes.

5 Q Got you. What was significant about January 27,
6 2013, 14 days after he testified that led you to sign him
7 up on that day?

8 A I had tried to meet with him several days prior,
9 but he wasn't at work. So the 27th was the first day I
10 found him at work.

11 Q Okay. Well, what was significant about the end
12 of January particularly that led you to go, officially
13 sign him up then?

14 A Nothing.

15 Q Nothing. How much has Mr. Arrowood been paid so
16 far as a source for the Pennsylvania State Police, sir?

17 A A thousand dollars.

18 Q And was that for one investigation or more than
19 one investigation?

20 A For one investigation.

21 Q And what investigation was that?

22 A This one.

23 Q This investigation?

24 A Yes.

25 Q When was Mr. Arrowood paid a thousand dollars

1 for this investigation?

2 A On the 27th of January, 2014.

3 Q Now what was Mr. Arrowood told about the reason
4 for being given a thousand dollars for this investigation?

5 A What was he told?

6 Q Yes. What was he told as to why he was getting
7 this thousand dollars?

8 A He was told there's thousand dollars in
9 reference to helping, assisting the police with an
10 investigation and that he's currently now signed up so he
11 can assist with future investigations.

12 Q Okay. But what did you say about why you were
13 giving him a thousand dollars for an investigation that
14 occurred on April 27, 2013. What did you tell him about
15 why he was getting that money?

16 A Because of his cooperation with the
17 investigation.

18 Q Okay. Now you would agree that witnesses
19 cooperate with the police all the time. Correct?

20 A Correct.

21 Q You don't pay every witness that cooperates with
22 the police. Correct?

23 A Correct.

24 Q All right. Let me ask you. Every time you sign
25 up someone as a source for the police as a paid source, do

1 you go back and look at all the times they had cooperated
2 in the past with the police and pay them for all of those
3 past incidents?

4 A We have. Yes.

5 Q So you would go back and find the past incidents
6 and say we are going to pay you for the past incidents
7 where you were not a paid source?

8 A We would sign them up and then pay them for
9 their cooperation in the past and then pending cooperation
10 in the future.

11 Q So if there was an incident that happened ten
12 years ago where a person cooperated with the police and
13 now became a paid source, you would go back and pay them
14 for the incident that happened ten years ago?

15 A That would be up to my unit supervisor. Ten
16 years is a pretty long span of time, counselor.

17 Q Was there a cut-off time?

18 A Not that I know of.

19 Q Okay. Now when you talked with Mr. Arrowood in
20 December 2013 about becoming a source, did you tell them
21 that the source are paid?

22 A Yes. I explained they could be paid. Yes.

23 Q Okay. Now how many times since December 2013
24 has Mr. Arrowood provided information to the Pennsylvania
25 State Police?

1 A As far as a phone call or as far as --

2 Q Everything.

3 A He's provided some information about some
4 freight. Like if I would walk the freight terminals, I
5 would ask him questions about particular pieces of
6 freight. He would cooperate in that way. Has he led to
7 any active investigations or arrests, none.

8 Q Well, you told me about walking the docks and he
9 identifies freight and you mentioned something about phone
10 calls. Has he made phone calls to you?

11 A No.

12 Q All right. So tell me in addition to walking
13 the dock with you and pointing out certain particular
14 freight, what else has he done to cooperate with the
15 Pennsylvania State Police since December 2013?

16 A He doesn't walk the dock with us and point out a
17 particular freight. I walk the dock and I ask him
18 questions about certain pieces of freight.

19 Q All right. So you what? You mean you locate a
20 freight and then you go find him and ask him?

21 A Right.

22 Q You bring him to the freight?

23 A Sometimes.

24 Q Okay. How often does that happen?

25 A Maybe once or twice.

1 Q And how often have you gone to him and asked him
2 about freight on the docks?

3 A Maybe once or twice.

4 Q And do you recall when those incidences were?

5 A Early on this year I believe.

6 Q In 2014?

7 A Right.

8 Q Do you remember what month?

9 A No, I don't.

10 Q In December 2013 when you visited the YRC
11 facility, you conducted a training as one of the trainings
12 you described that you conduct for these carriers?

13 A Right. We met with the weights and measures
14 people. I don't know if it was December. It was during
15 the winter. We met with several weights and measures
16 people during that time and Mr. Arrowood was one of those
17 people.

18 Q Okay. And tell us about what you told those
19 weights and measures individuals including Mr. Arrowood
20 when you had that meeting.

21 A The general trends that we look for as far as
22 drug trafficking and currency trafficking, different
23 packaging that we see. Just to kind of pique their brain
24 as to what to look for. If they see something that's kind
25 of strange or out of the ordinary to them, to call the

1 state police. Then we'll do the followup.

2 Q All right. And you talked to them about looking
3 at packages from where the origin of the packaging?

4 A Yes. Sometimes. Yes.

5 Q All right. Now you talked to them about where
6 drugs are usually travel from across the country?

7 A Right.

8 Q California, for example?

9 A Right.

10 Q And you had those conversations with Mr. or that
11 conversation with Mr. Arrowood and the other you said
12 weights coordinators?

13 A Right.

14 Q You've mentioned certain indicators earlier in
15 your testimony. I know you said that those were just
16 examples. Were those the type of indicators that you
17 discussed with Mr. Arrowood and the other weights
18 coordinators when you met with them?

19 A I believe so.

20 Q How many times have you gone back to YRC to
21 conduct the training that you just mentioned?

22 A After that, maybe two other times to touch base
23 with other aspects of YRC. There's a couple of different
24 terminals inside there.

25 Q I'm sorry. There's a couple of what?

1 A Different terminals inside the property there.
2 So I met with, for instance, the weights and measures
3 people one day and then came back a different day, went to
4 a different terminal, met with the office people there and
5 then the front office people at a different terminal. All
6 within the same area.

7 Q So let me see if I can understand. You went to
8 the location of YRC about 14 times since April the 27,
9 2013. We know that on, it sounds like on at least three
10 or so of those occasions, you conducted the training that
11 you described. What happened on the other say 11 or 10 or
12 11 occasions when you went back to YRC since April 17,
13 2013?

14 A Either myself or myself and my partners would
15 walk the docks and look at the freight coming in.

16 Q And this is with the permission of YRC?

17 A Right.

18 MR. RAVENELL: Court's indulgence, Your Honor.

19 THE COURT: Yes, sir.

20 (Pause.)

21 BY MR. RAVENELL

22 Q Now let me show you what has been admitted into
23 evidence as Exhibits 6, 7 and 8. These are represented as
24 the --

25 THE COURT: 6, 7 and 8?

1 MR. RAVENELL: I'm sorry?

2 THE COURT: 6, 7 and 8?

3 MR. RAVENELL: Yes. Thank you.

4 BY MR. RAVENELL:

5 Q These are represented as the photographs of the
6 Pallet 1 that was searched on that date. Would you look
7 at this and tell me whether this refreshes your
8 recollection that these are the photographs of Pallet 1 on
9 April 17, 2013?

10 A It looks consistent with the pallets that we saw
11 at YRC.

12 Q The one that was searched because you said there
13 was only one that was actually opened and searched. Is
14 that correct?

15 A Right.

16 Q Okay. Thank you, sir.

17 MR. RAVENELL: Court's indulgence. And Your
18 Honor, just to make sure we're clear, 6, 7, 8 is from the
19 January 13th hearing.

20 THE COURT: That is correct. They are dated
21 that way.

22 MR. RAVENELL: Right. Great. Let me just check
23 with my --

24 (Pause.)

25 MR. RAVENELL: Nothing further, Your Honor.

1 THE COURT: May I ask a question before you
2 examine?

3 MR. MITCHELL: Of course, Your Honor.

4 THE COURT: Trooper Feidler -- it's Feidler.
5 Right?

6 THE WITNESS: Fidler, Your Honor.

7 THE COURT: Fidler. Okay. Like fiddler on the
8 roof. All right. Trooper Fidler, when you conduct these
9 training seminars at a shipping facility such as YRC as
10 you have testified and you identify for the companies the
11 types of activity that in your mind reflects red flags for
12 shipment of contraband that could include drugs, you
13 mentioned certain things that you would look for,
14 prepaying them, paying extra for fast delivery, certain
15 types of wrapping, things of that nature. Is that right?

16 THE WITNESS: That is correct.

17 THE COURT: When you have given them that
18 intelligence, so to speak, and they now know some of the
19 things that you all are on the lookout for, what do you
20 tell them to do if they see something that has those
21 characteristics?

22 THE WITNESS: To call us. We don't want them to
23 take any extra steps other than to call us and then we'll
24 come out and corroborate everything.

25 THE COURT: Okay. Thank you. Continue.

1 CROSS-EXAMINATION

2 BY MR. MITCHELL:

3 Q Good morning, sir.

4 A Good morning.

5 Q I believe you testified earlier that you
6 responded to a report of a suspicious shipment at YRC's
7 facility in Carlisle, Pennsylvania on April 17, 2013. Is
8 that right?

9 A Yes, sir.

10 Q And before YRC reported that suspicious shipment
11 to the Pennsylvania State Police, was the Pennsylvania
12 State Police aware of the existence of that shipment?

13 A I don't believe so.

14 Q Now is it fair to say that the Pennsylvania
15 State Police did not tell YRC to target this particular
16 shipment?

17 A That is correct.

18 Q Is it fair to say that the Pennsylvania State
19 Police did not tell YRC to target shipments sent from the
20 O.C. Box Zone in Orange, California?

21 A That's correct.

22 Q Is it also fair to say that the Pennsylvania
23 State Police did not tell YRC to target shipments sent to
24 Auto Tech in Beltsville, Pennsylvania?

25 A In Beltsville, Maryland?

1 Q Excuse me. Beltsville, Maryland.

2 A That is correct.

3 Q And did the Pennsylvania State Police tell YRC
4 to inspect this particular shipment?

5 A No.

6 Q And did the Pennsylvania State Police tell YRC
7 to open this particular shipment?

8 A No.

9 Q And did the Pennsylvania State Police tell YRC
10 to search this particular shipment?

11 A No.

12 Q And in fact no one from the Pennsylvania State
13 Police was present when YRC opened and searched the
14 shipment. Is that correct?

15 A That is correct.

16 Q And the Pennsylvania State Police first learned
17 of the shipment after YRC had opened it and found a green
18 leafy substance. Is that right?

19 A That is correct.

20 Q Do you know what procedures or techniques YRC
21 followed to identify the suspicious freight shipment at
22 issue in this case?

23 A I don't. All I was told it was some sort of
24 weight discrepancy.

25 Q And when you arrived at the YRC facility on

1 April 17, 2013, YRC had already opened up one of the
2 pallets in the shipments at issue. Is that right?

3 A Yes.

4 Q And at the time did you believe that YRC had a
5 right or authority to open that shipment?

6 A Generally, when we as a state police deal with
7 freight facilities or smaller shipping companies like UPS
8 or FedEx, they have the right to open up whatever package
9 or parcel they want to make sure whatever they're shipping
10 is what it is and it's safe --

11 MR. RAVENELL: Objection to whether they have
12 the right, judge.

13 THE COURT: Yes. I'm not accepting the accuracy
14 of that, Mr. Ravenell. It's just his understanding.

15 BY MR. MITCHELL:

16 Q So it was your understanding that YRC was able
17 to open up the package?

18 A Yes.

19 Q And after you arrived, was a field test
20 conducted of the green leafy substance that YRC had found?

21 A Yes.

22 Q And was a canine scan performed on the pallets
23 at issue?

24 A Yes.

25 Q And the results of the field test were positive.

1 Is that correct?

2 A That is correct.

3 Q And the results of the canine scan were also
4 positive for illegal narcotics. Is that correct?

5 A That's also correct.

6 Q And based on this information, you obtained a
7 search warrant from the Pennsylvania judge. Is that
8 correct?

9 A Correct.

10 Q And at the time you had reasonable belief that
11 you had probable cause to support the search warrant. Is
12 that right?

13 A It is.

14 Q On April 17, 2013, did you meet an individual
15 named Tommy Arrowood?

16 A No.

17 Q And prior to April 17, 2013, had you ever met
18 Mr. Arrowood?

19 A No.

20 Q Prior to April 17, 2013, was Mr. Arrowood
21 designated as a source for the Pennsylvania State Police?

22 A No.

23 Q And prior to April 17, 2013, did the
24 Pennsylvania State Police promise Mr. Arrowood that he
25 would receive compensation for finding illegal narcotics

1 as a weights and measures or -- excuse me -- a weights and
2 inspection coordinator for YRC?

3 A No.

4 Q You testified earlier that in January 27, 2014,
5 long after the April 17, 2013 date when YRC found the
6 shipment at issue, Pennsylvania State Police signed up
7 Mr. Arrowood as a source. Is that correct?

8 A Yes.

9 Q And you testified that he was paid a thousand
10 dollars by the Pennsylvania State Police based upon what
11 he had found on April 17, 2013 and the information that he
12 had provided in connection with that discovery. Is that
13 right?

14 A Yes.

15 Q Did you read the transcripts of Mr. Arrowood's
16 testimony from the beginning of January 2014 in connection
17 with this case?

18 A No.

19 Q And did you speak with anyone from the U.S.
20 Attorney's Office about signing up Mr. Arrowood as a
21 source?

22 A No.

23 Q Did you speak with anyone from the U.S.
24 Attorney's Office about providing compensation to Mr.
25 Arrowood for the information that he had previously

1 provided the Pennsylvania State Police in connection with
2 the seizure of packages on April 17, 2013?

3 A No.

4 Q Did you speak with anyone from HSI or ICE
5 regarding signing Mr. Arrowood up as a source?

6 A No.

7 Q And did you speak with anyone from HSI about
8 paying Mr. Arrowood a thousand dollars in connection again
9 with this discovery on April 17, 2013?

10 A No.

11 Q So is it fair to say that you did not pay
12 Mr. Arrowood or sign him up as a source for providing
13 testimony in connection with this case?

14 A Yes.

15 Q And just to make that clear, you did not pay
16 Mr. Arrowood for providing testimony in this case?

17 A That is correct. I did not pay him for
18 providing testimony.

19 Q Thank you. Are you familiar with the Customs
20 Trade Partnership Against Terrorism also known as C-TPAT?

21 A No.

22 Q And so because you're not aware of it now, is it
23 fair to say that you were unaware of C-TPAT on April 17,
24 2013?

25 A Yes.

1 Q And it's also fair to say presumably that on
2 April 17, 2013, you were not aware that YRC was a member
3 of C-TPAT?

4 A I was not.

5 Q You testified a little earlier about conducting
6 training sessions or seminars at various different freight
7 carriers in Pennsylvania. Do you remember testifying
8 about that?

9 A Yes.

10 Q Prior to April 17, 2013, do you know whether the
11 Pennsylvania State Police had conducted training at YRC's
12 facility in Carlisle, Pennsylvania?

13 A I don't.

14 Q You don't know?

15 A I don't know.

16 Q Had you conducted any training prior to
17 April 17, 2013 at YRC's facility in Carlisle,
18 Pennsylvania?

19 A I had not and I have been in that Central
20 Interdiction Unit since September of 2012 and I don't know
21 of anyone that had contacted YRC within that window while
22 I was there.

23 Q And so the training sessions that you testified
24 to earlier of freight carriers in Pennsylvania, had that
25 all occurred after April 17, 2013?

1 A I believe we've gone to different freight
2 facilities before YRC, but I don't think we had ever gone
3 to YRC before then.

4 Q So it's your understanding that Pennsylvania
5 State Police had not conducted a training at YRC's
6 facility prior to April 17, 2013?

7 A That is correct.

8 Q And these training sessions were with regarding
9 to detection of illegal narcotics as well as money
10 laundering. Is that right?

11 A That is correct.

12 Q Were any of those trainings regarding C-TPAT?

13 A No.

14 MR. MITCHELL: Court's indulgence.

15 THE COURT: All right.

16 (Pause.)

17 MR. MITCHELL: Nothing further, Your Honor.

18 THE COURT: Redirect, Mr. Ravenell?

19 MR. RAVENELL: Just briefly, Your Honor.

20 MR. TUMINELLI: Your Honor, may we approach
21 before Mr. Ravenell begins his --

22 THE COURT: Yes, sir.

23 MR. TUMINELLI: -- redirect?

24 THE COURT: Mr. Harris, can you hear?

25 THE DEFENDANT: (Nodding.)

1 THE COURT: Thank you.

2 (Bench conference:)

3 THE COURT: Yes, Mr. Tuminelli?

4 MR. TUMINELLI: Your Honor, just out of an
5 abundance of caution, there's a sequestration order in
6 this case. Mr. Arrowood I'm sure was previously told and
7 counsel for YRC was told that there is a sequestration
8 order.

9 When we received the letter advising us that
10 Mr. Arrowood was the source for the Pennsylvania State
11 Police in a letter from Mr. Mitchell, Mr. Mitchell had
12 stated that the government believed that that disclosure
13 was not relevant to this hearing.

14 My concern is this. Counsel for YRC were
15 sitting here and I believe he only left the courtroom
16 after Mr. Mitchell objected to this line of questioning by
17 Mr. Ravenell with regard to this matter. Again out of an
18 abundance of caution, I believe that the Court should
19 again advise witnesses, this witness as well as counsel
20 for YRC that the testimony of this witness or any other
21 witness cannot be discussed with other witnesses who are
22 not in the courtroom. And particularly with regard to
23 counsel for YRC, counsel shouldn't be advising --
24 Mr. Arrowood should not be told with regard -- I'm
25 concerned that counsel because he is counsel thinks he can

1 discuss with Mr. Arrowood that there's been testimony by
2 this trooper that he, Mr. Arrowood, is a paid source for
3 the Pennsylvania State Police.

4 So again, Your Honor, I'd ask that you advise
5 this witness or not necessarily this witness particularly,
6 but make that sequestration order made again in front of
7 this witness and in front of counsel for YRC.

8 THE COURT: Let me just explore that for just
9 one second. It is true that when we started this hearing
10 earlier this year that either both the United States and
11 the defense or the defense only, someone did ask for me to
12 invoke the rule on witnesses, Rule 615, and we did.

13 MR. TUMINELLI: Right.

14 THE COURT: It has not been repeated at the
15 intervening ones because it was established and I have no
16 reason to doubt that any of the lawyers who are
17 participants in this needed that reminder. In terms of
18 making any witness who testifies here today aware of that,
19 then that is certainly appropriate and I will.

20 In addition, it is appropriate for purposes of
21 the continuation of this hearing beyond today to tell
22 counsel for YRC and anyone else the same. No question
23 about that.

24 I'm unsure just because it hasn't come up before
25 whether or not when this hearing is over, the rule against

1 witnesses precludes anyone from talking to those folks
2 between now and any trial that may result depending upon
3 the outcome of my ruling. I'm uncertain about that. But
4 I don't have to rule on that now because for purposes of
5 this hearing, your request is appropriate and I will do
6 that.

7 And one step further, I will -- I think we
8 should do it at the bench. I don't want to embarrass
9 anybody. But we can just verify with counsel his
10 knowledge that that has not occurred. Does that satisfy
11 your request?

12 MR. TUMINELLI: It does, Your Honor.
13 Mr. Arrowood is here. Correct? And he's going to
14 testify. Correct?

15 THE COURT: I assume.

16 MR. TUMINELLI: I'm not worried about what
17 happens after the hearing is -- if it is continued later
18 with Mr. Arrowood. I'm concerned that Mr. Arrowood is
19 told today before he gets on the stand by anyone what this
20 trooper has testified to.

21 THE COURT: No, no, no. I understand. Does the
22 United States want to make any statement about this?

23 MR. MITCHELL: The only statement, Your Honor,
24 that I would make is that Mr. Bolesta, who is the counsel
25 for YRC and is present in the gallery right now, was not

1 present at the January hearing and nor was any other
2 counsel for YRC. I would simply just note that for the
3 record.

4 THE COURT: Okay. All I'm saying is that what a
5 representative for YRC knew or didn't know is not an issue
6 before me right now. Going forward I want to make sure
7 that that's very clear and that's appropriate. And I
8 think probably -- Mr. Ravenell, do you have a sense of how
9 much longer on redirect because we have to take a break
10 pretty soon here.

11 MR. RAVENELL: I have a few questions.

12 THE COURT: Okay. All right. So after that,
13 we'll take a break, give our court reporter a break. And
14 then I will after the break, bring counsel up and make
15 sure that we're on the same wavelength on that. Fair
16 enough, everybody?

17 MR. FOREMAN: I guess I'm a little sort of taken
18 aback. I'm not sure what's the Court's authority for
19 YRC's counsel. They're not a party to this proceeding.
20 It's the same as if --

21 THE COURT: He's not a party. But he's in this
22 courtroom and he's subject to the rules that this Court
23 has for controlling the truth-finding mechanism that this
24 hearing is a part of. And if I have a rule that says that
25 no one can have a communication with a witness during the

1 course of that, it applies to spectators, it applies to
2 courtroom deputies, it applies to counsel, it applies to
3 employees of the court.

4 MR. FOREMAN: Your Honor, I just didn't
5 understand how far your ruling went. I thought you just
6 simply were limiting that witnesses should not be talking
7 to each other. I didn't understand that your
8 sequestration went to all individuals who may be present.

9 THE COURT: Let me just say this. The rule
10 would have little effect if it could be circumvented by
11 someone other than the witness going out there and
12 telling.

13 Now Mr. Mitchell raises a good point. We're not
14 at a point where we have to determine whether or not
15 anyone spoke to any witnesses. But if you have a
16 situation where someone had no knowledge of that, then
17 it's not like they've done something wrong. There may be
18 an issue that deals with that knowledge and how much
19 weight the witness can be given or what they did or didn't
20 know and where we go with that.

21 But it's just simply a matter that -- the
22 purpose of the rule under Rule 615 is to prevent coaching
23 witnesses, for witnesses to know from information which
24 is -- came out during the course of the proceedings,
25 information that could affect whether or not the testimony

1 they give at a subsequent date is unvarnished in their own
2 testimony as opposed to something that has been influenced
3 by the events that took place in the courtroom. And so
4 that's the concern.

5 MR. RAVENELL: Let me just add just two brief
6 points. One, I'm shocked by Mr. Foreman's comment as to
7 what is your authority and to tell people not to talk
8 about the case. I'm shocked that --

9 THE COURT: I'm not. I'm not shy about my
10 reaches of my --

11 MR. RAVENELL: Yes. I understand.

12 THE COURT: Nor am I unfamiliar with the rules
13 of evidence.

14 MR. RAVENELL: Even if Mr. Bolesta, YRC's
15 counsel, was not here, Mr. Arrowood certainly was and he
16 would know that there is a rule on witnesses and that he
17 was told not to discuss the matter.

18 THE COURT: That's true.

19 MR. RAVENELL: So it wouldn't matter whether
20 Mr. Bolesta was here or not.

21 THE COURT: No. I know. But I just want to
22 make sure that counsel now knows because until this
23 proceeding is resolved and we know the status of the
24 court -- of the case in general, I want to make sure that
25 the fact finding process is kept as fair and appropriate

1 as we can do. All right.

2 MR. RAVENELL: Thanks, judge.

3 THE COURT: Are we all on the same piece of
4 paper on this?

5 MR. RAVENELL: Yes.

6 THE COURT: All right. Great.

7 (In open court:)

8 THE COURT: Then Mr. Ravenell, you may proceed
9 with your redirect, sir.

10 MR. RAVENELL: Thank you.

11 REDIRECT EXAMINATION

12 BY MR. RAVENELL:

13 Q Sir, just a few questions. You were asked by
14 Mr. Mitchell whether you spoke to the government or anyone
15 from the government before you signed Mr. Arrowood up.
16 And whether you did speak to the government
17 representatives or not, it is true that you did sign
18 Mr. Arrowood up as a paid source for the Pennsylvania
19 State Police. Is that right?

20 A Yes.

21 Q Now you were asked by me on direct examination
22 and this was touched on by Mr. Mitchell, about what you
23 were told when you came to the YRC facility and you said
24 you don't recall, but it was something about weights. You
25 said that earlier as well.

1 When I asked you to go back and look at
2 your report, I point out that you actually said in your
3 report that Gladfelter indicated that one of his freight
4 inspectors, Mr. Arrowood, had conducted a routine
5 inspection of incoming freight during the morning of
6 4-17-13 and found two suspicious parcels. And all you
7 indicated was that he found two suspicious parcels and you
8 said that's correct. That's what you wrote. Is that
9 right?

10 A That's what I wrote.

11 Q And I asked you whether there was anywhere that
12 you wrote that there was any mention of weights being
13 involved. Is that correct?

14 A I don't know if it was weight or if it was
15 classification. I'm not sure which term I used.

16 Q Exactly. And that's what in fact you said
17 earlier that it might have been in fact classification.

18 A Right.

19 Q And then I asked you about whether there was a
20 reference in your report about rims. Correct?

21 A Yes. They were listed as rims.

22 Q Right. And they were listed as rims. And those
23 are the references you made in your report about rims on
24 the bill of lading and that there were two suspicious
25 packages. Correct?

1 A Yes.

2 Q Or parcels. Not packages. Those were the
3 references you made and what you were told and what you
4 learned. Is that correct?

5 A That's correct.

6 Q All right. Now lastly, sir, you were asked by
7 Mr. Mitchell whether you paid Mr. Arrowood for his
8 testimony in this matter and you said you didn't. But
9 when you paid him the thousand dollars, you were aware
10 that he was and is a witness in this matter. Correct?

11 A I believe I did know he was a witness at that
12 time. Yes.

13 Q Well, you know this case has not been tried yet.
14 Correct?

15 A Correct.

16 Q And you knew that he was -- not only had been
17 subpoenaed back in December as a witness, you know as an
18 experienced law enforcement officer that he might be a
19 witness in the trial as well. Correct?

20 A That is correct.

21 MR. RAVENELL: Nothing further, judge.

22 THE COURT: All right. Trooper Fidler, there is
23 a ruling I have made that no witnesses who have testified
24 here today are to talk to any other witnesses who have
25 testified in this hearing or who will testify in the

1 future in this hearing. So I make you aware of that, sir.
2 So please do not discuss your testimony here, what you
3 said when you testified here today with anyone who has
4 been a witness thus far in this hearing or who is a
5 witness who has not yet testified. All right, sir?

6 THE WITNESS: Yes, sir.

7 THE COURT: You are free to go.

8 THE WITNESS: Thank you.

9 THE COURT: We are going to take a break now so
10 our hardworking court reporter and the courtroom staff and
11 counsel can take a quick break. And I just would like to
12 invite counsel for YRC to approach if he would, please,
13 and counsel, too, really quickly. We don't need the
14 husher. I just am going to do it at the bench, but on the
15 record.

16 (Bench conference:)

17 THE COURT: Good morning, sir. Remind me of
18 your name again.

19 MR. BOLESTA: John Bolesta.

20 THE COURT: All right. Mr. Bolesta. I
21 apologize. I did not recall that you weren't here the
22 first day of the hearing and so you weren't here when I
23 invoked the rule on witnesses. But I just wanted to make
24 you aware of that and ask you going forward --

25 MR. BOLESTA: Oh, I'm aware of that.

1 THE COURT: No, no, no. No one is accusing you
2 of anything. I'm just making sure that going forward
3 until we get through all this that any witness who may
4 testify not have been provided any information about it.
5 And I had seen you here before in this hearing, but
6 couldn't recall whether I saw you for the first time or
7 not. And I did not cite the rule in the subsequent ones
8 when you first were here. So I just want to make sure we
9 are all on the same sheet of music. Very good. We'll
10 take a break now. Fifteen minutes.

11 (Recess.)

12 THE COURT: Are we ready to proceed, everyone?

13 MR. RAVENELL: Yes, judge.

14 THE COURT: All right. Shall we bring the next
15 witness in?

16 MR. RAVENELL: Yes. Mr. Arrowood, judge.

17 THE COURT: All right. Mr. Arrowood, would you
18 come back, please, and have a seat? You have been
19 previously sworn. So you remain under oath. We don't
20 need to have you go through the oath again, sir. Have a
21 seat. Adjust the microphone to your name and we'll pick
22 it up from there, sir.

23 Mr. Ravenell, whenever you're ready, sir.

24 MR. RAVENELL: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MR. RAVENELL:

2 Q Good morning, Mr. Arrowood.

3 A Good morning, sir.

4 Q Mr. Arrowood, in preparation of this hearing,
5 have you discussed -- have you further discussed this case
6 with anyone from the government since you appeared here on
7 January the 13th of 2014?

8 A No, I have not.

9 Q Since you were last here on January or last
10 testified on January 13th of 2014, have you conducted any
11 independent research regarding this case, sir?

12 A No, I have not.

13 Q Have you discussed this case with anyone, not
14 just the government, since you were here on January the
15 13th of 2014, sir?

16 A Yes, I have.

17 Q And with whom have you discussed this case?

18 A My wife, friends, some colleagues. John
19 Bolesta, Krista Turner. I can't recall everybody that I
20 spoke with.

21 Q Now tell us about -- first, tell us who the
22 colleagues are that you discussed the case with, sir?

23 A Just friends at work or friends at home.

24 Q And what did you tell your friends about this
25 case?

1 A Just that I came here. That I had to testify
2 for a shipment that I found. You know, I don't recall any
3 specific content. But in general, you know, the
4 experience here in the courtroom.

5 Q Anything else?

6 A Not that I can recall.

7 Q Anything particular that you can recall, sir,
8 that you told them about this case, your colleagues?

9 A Not anything in particular.

10 Q Who are the colleagues that you met with when
11 you talked about the case?

12 A Just people from work.

13 Q Okay. Do they have names?

14 A I can't recall everybody. But I would have -- I
15 told Mike Phillips that I came down here to testify or
16 that I did come down and then I told him that I wasn't
17 called on the 14th and that I'm probably going to have to
18 come down again.

19 Q Okay. Now you told Mike Phillips that you were
20 here and that you testified on January 13th of 2014?

21 A Yes.

22 Q Okay. And then you told him that you had been
23 here on another occasion as well?

24 A I told him that -- I believe I was asked to come
25 down here in -- earlier this month in April timeframe.

1 Q well --

2 A I don't recall the exact date.

3 Q I cut you off. You said you don't recall the
4 exact date?

5 A Of the April date that I was first here.

6 Q Got you. And who else from YRC and your
7 colleagues did you speak to other than John -- I'm
8 sorry -- Mike Phillips?

9 A It would have been my associates on my team.

10 Q And who are those associates on your team?

11 A It would be Teresa Eck.

12 Q Teresa -- I'm sorry?

13 A I'm sorry. Teresa Eck, Fred Kessler, Kevin
14 Tompkins. I don't recall speaking with either George Pear
15 or John Croft.

16 Q Now those people that you mentioned, are they
17 all weights and inspection coordinators?

18 A Yes, sir.

19 Q Now Teresa Eck, how does she spell her last
20 name?

21 A E-C-K.

22 Q So -- I'm sorry. You mentioned the name, Krista
23 Turner. Who is that?

24 A Krista Turner is YRC counsel.

25 Q All right. And where is Ms. Turner located?

1 A In Kansas.

2 Q And don't tell me what your subsequent
3 conversation was. When did you speak with Ms. Turner?

4 A I spoke with Ms. Turner before and after
5 testimony in January.

6 Q Okay. How many times did you speak with
7 Ms. Turner before your testimony in January?

8 A I don't recall how many times. More than once.

9 Q I'm sorry?

10 A More than once.

11 Q Give me your best recollection.

12 A Three, four times maybe.

13 Q Okay. And how many times have you spoken with
14 Ms. Turner since your testimony on April the -- I'm
15 sorry -- January 13, 2014?

16 A I'm sorry. Once that I recall.

17 Q Now you are here today because you've been
18 served with a subpoena by the defense. Correct?

19 A Yes, sir.

20 Q And our process server attempted to serve you
21 several times at your home. Correct?

22 A Yes, sir.

23 Q On the first occasion on March 28th of 2014, you
24 answered your door with your pit bull when the process
25 server came to your home. Correct?

1 A On which day?

2 Q March 28, 2014. The first time they came to
3 serve you a subpoena for this hearing.

4 A There was a gentleman that came to my door, but
5 I don't -- when I answered the door, you know, yes, I have
6 a dog. But, you know --

7 Q Yes, you have a dog and, yes, you brought your
8 pit bull to the door when a woman process server, Victoria
9 Nash, came to your door. Correct?

10 A That is not correct.

11 Q It didn't happen?

12 A That did not happen. I did not answer the door.
13 I wasn't even home when Ms. Nash came to my house.

14 Q How do you know that Ms. Nash came to your home?

15 A Because you just told me Ms. Nash came to my
16 home.

17 Q Well, did a woman come to your home as a process
18 server?

19 A Yes.

20 Q And did you answer the door?

21 A No, I did not answer the door. I was not home.

22 Q You did not answer the door and say that Tommy
23 Arrowood was not present?

24 A No, I did not. I was at the Hagerstown terminal
25 training another W & I coordinator that evening.

1 Q Now that's interesting. I asked you last time
2 about an occasion that you said you were at Hagerstown
3 training on another date as well on December 2013.

4 A Yes.

5 Q Do you go to the Hagerstown facility often to
6 train?

7 A I went to the Hagerstown facility for a week to
8 train that coordinator in his facility and then I was
9 asked to go up for one more day because he was having
10 difficulties and I went up that one more day to train him.

11 Q Okay. So are we talking now about the March
12 time, March of 2014 you went up for a week to train or was
13 this the December 2013?

14 A The week training I believe was in January.

15 Q Okay. So let me see if I can be clear. How
16 often have you been to the Hagerstown facility to train w
17 & I coordinators?

18 A How could I have been?

19 Q No. How often have you done that?

20 A I was there for one week the first time and I
21 was there for one night the second time.

22 Q And the week was in January?

23 A I believe it was in January.

24 Q Were you there in December of 2013?

25 A Yes. I'm sorry. It was in December that I was

1 there. It wasn't January.

2 Q So in December of 2013, you went there to
3 Hagerstown to train a W & I coordinator?

4 A In December, yes.

5 Q And you went back when again?

6 A I believe it was in March I think. I don't
7 recall the exact date. It was --

8 Q A moment ago when I asked you about March 28th
9 of being home, you said no, I was in Hagerstown. Do you
10 have a clear recollection that on March 28th, you were at
11 Hagerstown -- you were in Hagerstown?

12 A I have a clear recollection that when --

13 Q Well, just answer my question. Do you have a
14 clear recollection as you said a moment ago when I asked
15 you about March 28th, that you were in Hagerstown training
16 a W & I coordinator?

17 A I was in Hagerstown training a W & I coordinator
18 the evening that someone visited my house.

19 Q Okay. And you did not come to the door when
20 Ms. Nash came there with a -- you walked in there with
21 your pit bull and said that Tommy Arrowood was not home?

22 A No, I did not come to the door.

23 Q When did you first learn that this woman was at
24 your home as a process server?

25 A I learned that evening. My son called me on my

1 cell phone.

2 Q Who lives in your home?

3 A My wife, my two children.

4 Q And how old are your children?

5 A My son is -- one is 16. The other is 23.

6 Q I'm sorry? One is 16 and one is 23.

7 A I believe he's 23. Yes.

8 Q And how old are you?

9 A I'll be 50 this year.

10 Q Okay. People don't often mistake you for your
11 23-year-old son. You would agree?

12 A I wouldn't know.

13 Q You're almost 50. He's 23. Right?

14 MR. MITCHELL: Objection, Your Honor.

15 THE COURT: Sustained.

16 BY MR. RAVENELL:

17 Q Did you in fact ask a woman process server to
18 give you her card, sir, at any point?

19 A No. I asked that of Mr. Hewitt when he showed
20 up at my home. I asked for identification when he showed
21 up.

22 Q Now Mr. Hewitt was a process server that came
23 after this woman was at your home. Correct?

24 A Correct.

25 Q And Mr. Hewitt came to your home on April 4th of

1 2014. Correct?

2 A I'm not sure of the date. But he did come to my
3 home. Yes.

4 Q And when Mr. Hewitt came to your home on this
5 occasion, your son answered the door. Correct?

6 A My youngest son answered the door. Yes.

7 Q And when the process server asked for Tommy
8 Arrowood, your son shouted to you that someone was at the
9 door and then that's when you came to the door. Correct?

10 A Yes, sir.

11 Q Okay. All right. And the process server
12 advised you that he was there to serve a subpoena.
13 Correct?

14 A I asked him why he was there.

15 Q And he told you his name was Mr. Hewitt?

16 A I believe he said his name was Mr. Hewitt.

17 Q You just mentioned Hewitt a moment ago. Is that
18 right?

19 A Yeah. That's -- yeah.

20 Q Okay. Now when you testified previously on
21 January the 13th of 2014, I asked you to list all the
22 people you had talked to about this case and I've gone
23 back to read your transcript you might not be surprised a
24 couple of times and Krista Turner's name doesn't appear.
25 Is there a reason why you didn't tell us about your

1 conversation with Ms. Turner prior to April the -- your
2 testimony on January 13th of 2014?

3 A No. There's no particular reason why. She was
4 the YRC counsel that was advising me. I don't recall why
5 I didn't mention her name.

6 Q You don't recall why you didn't?

7 A No, I do not recall why I did not mention her
8 name.

9 Q Without telling me what she said, you said that
10 she was advising you. Is that correct?

11 A She would --

12 Q Don't tell me what she said because the Court
13 won't let me go there, even though I'd love to. But you
14 said that she was advising you. Is that correct?

15 A Correct.

16 Q Now you testified previously I believe you said
17 on January 13 of 2014. When you appeared in court on
18 January 13, 2014, you came in with a file containing what
19 you described as company documents and your personal
20 notes. Do you recall that?

21 A Yes.

22 Q Now since you were last here, sir, we received a
23 lot of documents from your employer, YRC. So with that in
24 mind, let's talk a little bit about you and your reasoning
25 that you gave for opening the pallet on April the 17,

1 2013. You previously testified that you were in the
2 military. Correct?

3 A Correct.

4 Q And could you remind me, sir, how long you were
5 in the military and what positions you held?

6 A I was in for a little over 20 years. The
7 positions that I held was in human resources, logistics
8 and artillery. The M.O.S.'s were 75 Hotel, 13 Bravo and
9 92 Yankee.

10 Q And what is logistics?

11 A Supply.

12 Q Now is that a pretty precise area that you work
13 in?

14 MR. MITCHELL: Your Honor, the government would
15 object to this line of questioning. This ground has been
16 tilled once before at length. It's unclear exactly where
17 we're going.

18 THE COURT: Well, I do share a concern that this
19 is minimally relevant if relevant at all. I'm going to
20 let Mr. Ravenell have a little latitude to develop the
21 testimony, but it is not without limit.

22 MR. RAVENELL: I understand.

23 BY MR. RAVENELL

24 Q Now logistics that is a pretty precise area,
25 getting things right, getting material to the military men

1 and women. Is that correct?

2 A As a supply sergeant at the battalion level and
3 also at the company or battery level, basically my
4 function was to help essentially move a body of people
5 from point A in the world to point B in the world and
6 sustain them with everything that they would need to
7 function for any period of time, be it clothing, food,
8 ammunition, water, transportation, equipment.

9 Q And that's a job that required you to be very
10 detailed and oriented. Correct?

11 A Yes.

12 Q Okay. Now you will have been with YRC for about
13 eight years. Is that correct?

14 A No. I have been with YRC I believe this June or
15 this July will be seven years.

16 Q Seven years. Okay. And would you agree that
17 you are dedicated to your job, sir?

18 A Yes.

19 Q And you are very regimented. Is that correct?

20 A Meaning what, very regimented?

21 Q Well, you, for example, how I would define
22 regimented is that one who sees a task, stays on task to
23 make sure that the job gets done and follows a particular
24 procedure. Would you agree that's you?

25 A I would agree with that.

1 Q Okay. Now you would agree that being regimented
2 is probably in some regards is particularly attributed to
3 your military background?

4 A Yes.

5 Q And would you consider yourself good at your
6 job?

7 A I would consider myself good at my job.

8 Q A good employee?

9 A I would consider myself a good employee.

10 Q You are an employee that listens to your
11 supervisor?

12 A Yes.

13 Q And you're an employee that does what is
14 required of you?

15 A Yes.

16 Q You don't just do the minimum to get by. Is
17 that correct?

18 A Correct.

19 Q During your seven-year tenure at YRC, how often
20 are you late or failed to show up for work?

21 MR. MITCHELL: Objection, Your Honor.

22 THE COURT: Sustained.

23 BY MR. RAVENELL:

24 Q Do you follow company policies and procedures,
25 sir?

1 A Yes, I do.

2 Q And do you follow your job procedures as they
3 have been taught to you?

4 A I follow my job procedures as taught to me.
5 Yes.

6 Q Now you testified previously and again today
7 that you have been to the Hagerstown facility to train
8 another individual who is a weight and inspection
9 coordinator?

10 A Correct.

11 Q And you're selected to do that job because
12 you're good at what you do?

13 MR. MITCHELL: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. RAVENELL:

16 Q Were you selected --

17 MR. RAVENELL: May I? I only have a couple more
18 questions in the area and if I could approach, I'll tell
19 you why it's important.

20 THE COURT: Well, let me just say this.

21 Mr. Arrowood, if you know why it was that you were
22 selected to go to Hagerstown, if your boss said, for
23 example, hey, I'm sending you to Hagerstown because, dot,
24 dot, dot, then you can say it. But if you have to
25 speculate or guess, then don't speculate or guess. So

1 with that in mind, you can answer the question. Do you
2 know why it was you were sent to Hagerstown?

3 THE WITNESS: Yes, sir. I do know why I was
4 sent to Hagerstown.

5 THE COURT: All right. Next question.

6 BY MR. RAVENELL:

7 Q And were you sent to Hagerstown because you are
8 good at your job, sir?

9 A I was sent to Hagerstown because I live 23 miles
10 from the terminal. I'm the closest person and yes, I am
11 good at my job.

12 Q Okay. So it's two parts. Because your close
13 and because you're good at your job.

14 A Correct.

15 Q All right. So let's for a moment, sir, say that
16 we accept as true your reasons you gave for opening this
17 pallet on April 17, 2013 that you conducted a three-second
18 evaluation and noticed the issues regarding the density
19 and the weight.

20 Now one of the things that you do in your
21 three-second evaluation and what you testified you did
22 here is that you looked to see where the pallet is coming
23 from. Correct?

24 A Yes. I see -- we look, you know, where it's
25 coming from, where it's going to --

1 Q Right. So you look at -- I'm sorry. Go ahead.
2 You may finish.

3 A We look at the weight and we look at the volume
4 and we look at the class and the commodity description and
5 we determine whether or not the class being charged makes
6 sense to the weight and volume that we're looking at.

7 Q Okay. So let's start with the first part I
8 asked you about. You said you looked to see where the
9 item is coming from and where it is going. Why is the
10 point of origin important?

11 A Point of origin in destination is -- it's just
12 one indicator. If, for instance, let's say, there's a
13 shipment from -- there's just a Hershey, PA, from the
14 Hershey Chocolate Factory going to just Chambersburg,
15 Maryland and it's going to a gymnasium some place and
16 they're saying that it's bar bells or whatever. And the
17 same circumstance would be if, you know, if the weight and
18 the class didn't match with the density. You know,
19 Hershey, they're a chocolate manufacturer. They are
20 saying they are sending something to a gym that says bar
21 bells. But, you know, that's one of the things that
22 wouldn't make sense.

23 Q So you said that the point of origin is one of
24 the indicators you look for. Is that correct?

25 A The indicators that we look for are --

1 Q well, just answer my question. Is that one of
2 the indicators you look for?

3 A It's one of the things we look at.

4 Q Okay.

5 A Point of origin, destination.

6 Q Now here the, in this particular package or
7 parcels on these two pallets, the point of origin was
8 California. Correct?

9 A The point of origin was a business in California
10 I believe.

11 Q So the State of California. Correct?

12 A I believe so.

13 Q Okay.

14 A I don't have any of the paperwork in front of
15 me.

16 Q I know you don't have the paperwork now in front
17 of you. Do you recall that it was California?

18 A I believe it was California.

19 Q Now one of the things that you look for on the
20 waybill will be whether the person paid extra for a
21 shipment to be guaranteed by a specific date and time?

22 A No.

23 Q No?

24 A That's not an indicator for me. No. There's
25 no -- to my knowledge there's no specific delivery date on

1 the waybill. It's not an indicator.

2 Q So the waybill does not have in your
3 understanding a specific delivery time?

4 A I don't recall if it has a delivery time.
5 That's not one of the things that I look for.

6 Q Well, you've looked at many waybills over the
7 seven years. Correct, sir?

8 A Correct.

9 Q And you're telling me that you don't have any
10 recollection of whether the waybills have information
11 about a particular date and time for delivery?

12 MR. MITCHELL: Objection.

13 THE COURT: Sustained.

14 BY MR. RAVENELL

15 Q Now according to you and what you testified the
16 last time you were here is that you opened the pallet
17 because of the density and weight was questionable. You
18 told us you have been with the YRC for seven years. How
19 many inspections have you done in a seven-year period,
20 sir, approximately?

21 A Last year -- like I don't know how many I
22 personally did. Last year, my department, the team at the
23 135 terminal did around, did 29,000 or so corrections.
24 They wrote 29,000, you know, over 29,000 corrections.

25 Q Okay. That means that you would have done quite

1 a bit more inspections?

2 MR. MITCHELL: Objection Your Honor. Vague.

3 THE COURT: Well, if you understand the
4 question, if you're not confused about what the question
5 asked, please answer it if you can from your personal
6 knowledge. If you don't understand it, you can explain
7 that and we'll get another question.

8 THE WITNESS: Could I hear the question again,
9 please?

10 BY MR. RAVENELL:

11 Q Yes. If there were 29,000 corrections, you
12 would agree that each and every inspection doesn't lead to
13 a correction?

14 A Correct. Each and every inspection does not
15 necessarily lead to a correction.

16 Q So if there were 29,000 in corrections, it's
17 safe to assume that there were more inspections than that?

18 A Yes.

19 Q Now if you decide to inspect a pallet after your
20 three-second evaluation, how long on average would you say
21 an inspection takes?

22 A Average is -- a lot depends on the size of the
23 shipment because, you know, if you have to measure every
24 pallet or if they have the -- you know, if they have
25 multiple line items that they're declaring, you have to

1 measure everything. On average, I would say for a simple,
2 a simple correction it would be, you know, three to five
3 minutes. On something -- a large shipment or something
4 that really has the bill of lading broken down, you know,
5 it could be ten, fifteen minutes.

6 Q Now on April the 17th of 2013, on this occasion,
7 your inspection included opening the packages on the
8 pallet. Correct?

9 A Correct. I opened one package.

10 Q Right. And how often does your inspection
11 include opening packages?

12 A Almost all the time. If there's no packing list
13 or -- most of the time, we open packages because we have
14 to photograph the contents of the package. There are
15 instances where you have to make a judgment call that if
16 you're going to destroy the packaging to -- like let's say
17 the shipment is banded or packaged in a way that the
18 packaging gets destroyed, then you would look for things
19 like a packing list on there to help identify what the
20 contents are. So in some instances, you may not open a
21 box. But in most instances we open up the cartons to
22 identify the content or the character inside the cartons.

23 Q Okay. So as you said, most of your inspections
24 do involve opening the packages?

25 A Correct.

1 Q Now let me ask you. You testified previously
2 that you were trained in approximately 17 modules by a
3 senior coordinator on how to do your job. Is that
4 correct?

5 A Correct.

6 Q You mentioned a moment ago taking pictures. So
7 do you have access to a camera as a tool on your job?

8 A Yes, I do.

9 Q Do you also have access to a computer on your
10 job?

11 A When I'm walking the dock, no, I don't have a
12 computer with me.

13 Q Well, you don't carry it with you, but there's a
14 computer that's accessible to you while you're working.
15 Correct?

16 A Correct.

17 Q Are you familiar with SHPI page from Module 6?

18 A That's the SHPI screen.

19 Q Okay. It's called a SHPI?

20 A That's what we call it. S-H-P. SHPI.

21 Q And SHPI means shipment information system.
22 Correct?

23 A Either that or shipment inquiry. I think it's
24 shipment information system, shipment inquiry.

25 Q And the shipment information system or SHPI

1 provides you the details of a shipment. Correct?

2 A Yes.

3 Q Specifically, one of the things that SHPI tells
4 you is whether a correction was issued on a freight
5 previously and who issued the correction. Right?

6 A Correct.

7 Q Now let me show you what will be Defense Exhibit
8 3. And I ask you to turn to page 5 while I give other
9 copies out.

10 THE COURT: All right. Let me know when you are
11 going to introduce it, Mr. Ravenell.

12 MR. RAVENELL: Yeah. I'm moving it in now, Your
13 Honor.

14 THE COURT: Any objection?

15 MR. MITCHELL: No objection, Your Honor. The
16 government would note for the record, however, that there
17 appears to be multiple Exhibit Number 3's. Exhibit Number
18 3 at the January hearing was the audio of -- and this
19 Exhibit Number 3 was --

20 THE COURT: Let's just do this. Let's mark this
21 one, after the 3, we are going to mark it 042914, which
22 would be today's date. And I'll ask our courtroom deputy
23 to do that. And if you could do so accordingly? And you
24 may proceed, Mr. Ravenell.

25 MR. RAVENELL: Thank you, Your Honor.

1 (Defense Exhibit Number 3-42914 was admitted
2 into evidence.)

3 BY MR. RAVENELL

4 Q Sir, I'm showing you Exhibit 3 and tell us what
5 that is, sir.

6 A Exhibit 3 is the W & I Department Training
7 Module 6-B.

8 Q And I was asking you about what the -- this
9 module provides and the details of the shipments. And if
10 you would turn to page 5 of that document?

11 A I'm on page 5.

12 Q Okay. Near the middle, it has the SHPI and it
13 says it's shipment information system. Do you see that?

14 A Yes.

15 Q All right. And in fact, it does list that you
16 can view the details of a shipment?

17 A Yes.

18 Q And you can check to see if a correction was
19 issued and who issued it. Correct?

20 A Correct.

21 Q You're also taught in another module that SHPI,
22 what SHPI is used for and that's Module 10-B. Are you
23 familiar with Module 10-B? That's one of the ten modules
24 you would learn or 17 modules you would go through?

25 A I believe there's a Module 10-B.

1 Q Okay.

2 MR. RAVENELL: Your Honor, let me get Exhibit 4
3 for this hearing. And how do you want us to mark it, Your
4 Honor. As 4 -- Ms. Chun has already taken care of it I
5 see.

6 BY MR. RAVENELL:

7 Q If you would turn to page 2 of Exhibit 4 of this
8 day's hearing, Module 10-B. There's a section called
9 Exercise. Do you see that?

10 A Yes.

11 Q And that tells you, talks about the SHPI again.
12 Is that correct?

13 THE COURT: Which page, please, sir?

14 MR. RAVENELL: On page 2, Your Honor.

15 THE COURT: Thank you.

16 THE WITNESS: Yes.

17 BY MR. RAVENELL:

18 Q The first full paragraph there. There are other
19 screens you will use daily. Do you see that?

20 A Yes.

21 Q All right. And if you read that into the middle
22 of that document, it says, that paragraph says "if there
23 has been a correction issue, you can find that on this
24 SHPI." Correct?

25 A Yes. "There's been a correction issued if the

1 shipment has been split to name a few."

2 Q All right. So there's at least several places
3 you have been told that if you want to check to see
4 whether a correction had been made, you can go to either
5 the SHPI to see whether a correction has been made.
6 Correct?

7 A Correct.

8 Q Okay. Now in that same section in 10-B on page
9 2, it tells you that the way to get this information is
10 about a shipment is to plug in the pro number. Correct?

11 A Correct.

12 Q And what is a pro number?

13 A A pro number is the tracking I.D. number for the
14 shipment.

15 Q Okay. Now the last time we were here, I showed
16 you a document that -- an exhibit that this particular
17 shipment had been checked for weight and corrected for
18 weight at a prior terminal. Remember me showing you that
19 document?

20 A I don't recall you showing me that document.

21 Q You don't recall seeing that document? We'll
22 get the document in a moment.

23 Now one of the things if you were concerned
24 about the weight of the shipment on April the 17th of
25 2013, you could check SHPI to see if there in fact had

1 been a weight correction. You could have done that?

2 A I could have done that, but I wasn't --

3 Q I didn't ask you -- could you have done it?

4 A Yes.

5 Q Okay. Now let me show you what was introduced
6 prior in Exhibit 9. The last time I went through the pro
7 number with you to confirm that this was the same package
8 and it showed for this particular pro number, that there
9 had been an inspection date on April the 12th of 2013.
10 Correct?

11 A Correct.

12 Q And show that there had been a weight change.
13 Is that correct?

14 THE COURT: Is this a document previously
15 admitted?

16 MR. RAVENELL: Previously admitted, Your Honor.
17 Exhibit 9.

18 THE WITNESS: Yes, sir.

19 BY MR. RAVENELL

20 Q It showed that there had been a weight
21 correction?

22 A Yes.

23 Q Okay. So if you would look into the SHPI, this
24 information should have been in the system indicating
25 there had been a weight correction on this particular

1 package on April the 12th of 2013. Correct?

2 A If I had looked into the SHPI, I would have saw
3 that. Yes.

4 Q Okay. Now are you also familiar with SHPCOR?

5 A Yes.

6 Q And if you'd look back at Exhibit 3 for today's
7 hearing and turn back to page 5, there is a section at the
8 bottom, SHPCOR?

9 A Yes, sir.

10 Q And it's called Shipment Correction Inquiry?

11 A Correct.

12 Q And it allows you to view the correction history
13 of a specific shipper as well. Correct?

14 A Yes.

15 Q So if the person who shipped the package on
16 April the 17, 2013 had shipped previously with YRC, SHPCOR
17 would be a place to check for corrections as to that
18 particular shipper as well?

19 A Yes. You could check SHPCOR to see if anything
20 has been previously corrected, any prior shipments.
21 Correct.

22 Q Did you check SHPCOR or SHPI on April 17, 2013
23 regarding the package involved in this case?

24 A No.

25 Q Now part of your daily tasks is to spend 20

1 minutes tracking inbound corrections. Is that right?

2 A Yes.

3 Q In fact if we turn to page 1 of Exhibit 3 where
4 it lists coordinator's daily tasks, one of the things it
5 says is for you to track possible inbound corrections?
6 About six, five bullets down. Do you see that?

7 A Yes.

8 Q Okay. And it tells you how to do that using the
9 following screens. Right?

10 A Yes.

11 Q Now as a W & I coordinator, there are certain
12 guidelines you are required to follow when you decide to
13 inspect a freight if you are doing that inspection for YRC
14 purposes. Correct?

15 A Could you repeat the question, please?

16 Q Sure. As a W & I coordinator, there are certain
17 guidelines that you are required to follow when you decide
18 to inspect a freight if you are inspecting that freight
19 for YRC purposes. Correct?

20 A There are procedures that I am required to
21 follow when I make a correction.

22 Q And those -- I'm sorry?

23 A When I actually do a correction. Correct.

24 Q Well, there are procedures that are set that you
25 are supposed to follow if you are going to do an

1 inspection that might lead to a correction. Right?

2 A There's -- I don't understand what you're asking
3 me here.

4 Q Well, let me help you.

5 A Yes, please.

6 Q If you see an item packaged that you think there
7 might be something off that might lead to a possible
8 correction. You don't know if it's going to be a
9 correction until you finish your task. Correct?

10 A Correct.

11 Q So you can't know that in advance. Right?

12 A Right.

13 Q So your company has set forth particular
14 procedures that you are to follow when you are about to
15 inspect a package that might lead to a correction. Right?

16 A Right.

17 Q All right. And you know what those policies,
18 those procedures are. Right?

19 A Yes.

20 Q Because you've done them a million -- not a
21 million, but many times. Correct?

22 A Yes.

23 Q What are the questions you're supposed to ask
24 yourself while you're inspecting the shipment that might
25 lead to a correction? Did you understand the question,

1 sir?

2 A Could you ask it again?

3 Q Yes. Sure. I would be happy to. What are the
4 questions that you are taught that you are supposed to ask
5 yourself while inspecting a shipment that might lead to a
6 correction?

7 A Some of the things would be what's the intended
8 purpose, what's it made out of, is it set up, is it
9 knocked down? There's a multitude. I can't cite you
10 verbatim word for word.

11 Q All right. So you said that some of the
12 questions are what's the -- did you say what the function
13 is it?

14 A What's the intended function.

15 Q Intended function. And whether it's set up? Is
16 that right?

17 A Whether it's set up or knocked down. What is
18 the commodity made of or its intended use.

19 Q Since you can't remember them all, let me give
20 you what would be Exhibit 25. Now if you would turn --

21 MR. RAVENELL: Your Honor, I would move Exhibit
22 25 in.

23 MR. MITCHELL: No objection.

24 THE COURT: It's in.

25 (Defense Exhibit 25 was admitted into evidence.)

1 BY MR. RAVENELL:

2 Q I would ask you to turn to page 3 of Exhibit 25,
3 sir. Now at the bottom of page 3, your employer actually
4 tells you what questions you are supposed to ask yourself
5 while inspecting a parcel if you're doing it for YRC
6 purposes. Correct? Carries over to page 4?

7 A Yes.

8 MR. MITCHELL: Your Honor, the government would
9 just simply object as to foundation with regard to this
10 particular document.

11 THE COURT: All right. It's already in. So I'm
12 going to overrule the objection.

13 MR. MITCHELL: It's not admissibility, Your
14 Honor. It's the line of questioning.

15 THE COURT: Overruled.

16 BY MR. RAVENELL

17 Q Now the last question that you're supposed to be
18 in that list supposed to be asking yourself while
19 inspecting this package is if I was in a court of law,
20 could I defend this correction. Is that right?

21 A Yes.

22 Q And this same question is actually -- this point
23 is actually taught to you in Exhibit 4, Module B as well
24 on page 3. Would you turn there? "While inspecting the
25 shipment, ask some questions: How is it used, what is it

1 made of, is it set up, knocked down, how is it packaged,
2 what proof would I need to defend this correction in
3 court." That's something that is made clear to you that
4 if you're doing this inspection for YRC purposes, you need
5 to follow the procedures that YRC sets out because one of
6 the things that YRC is concerned about is can they later
7 defend this matter in court if they have to. Is that
8 right?

9 MR. MITCHELL: Objection.

10 THE COURT: Overruled.

11 BY MR. RAVENELL:

12 Q Is that right, sir?

13 A Yes.

14 Q And you're taught that in several of your
15 modules?

16 A Yes.

17 Q Now the guidelines for inspecting freight are
18 found under Module 8-B. Is that right?

19 A I'd have to see Module 8-B.

20 Q You are going to have to see it.

21 MR. RAVENELL: May I have Exhibit 6?

22 BY MR. RAVENELL:

23 Q I'm going to give you 8-B.

24 MR. RAVENELL: Your Honor, I would move Exhibit
25 8-B.

1 MR. MITCHELL: No objection.

2 THE COURT: 8-B is in. Well, it's actually
3 Exhibit 6.

4 MR. RAVENELL: Yes. Exhibit 6 which is Module
5 8-B. Thank you.

6 (Defense Exhibit Number 6 was admitted into
7 evidence.)

8 BY MR. RAVENELL

9 Q Could you turn to page 10 of Exhibit 6, sir?
10 Now on page 10 at the bottom is a section called
11 Inspection of Freight. Do you see that?

12 A Yes.

13 Q And specifically, you are taught and you're
14 required to do the following if you are doing an
15 inspection for YRC purposes: Be sure to have all pieces
16 of the shipment before starting the inspection. Measure
17 all pieces, length, width and height to the one-fourth
18 inch. Verify the weight of the shipment whenever
19 possible. Be sure to verify weight on density based
20 corrections. Check for packing list on shipment to see
21 how shipper is describing the freight. Take a minimum of
22 three pictures. More is helpful. Take pictures in this
23 order for ease in numbering and downloading your pictures:
24 Pro number, shipment label, packing list, product
25 shipped -- open cartons to display contents, provide

1 pictures of how product is tendered for shipment, include
2 all pieces of the shipment.

3 Those are your required procedures to
4 follow when you are doing an inspection for YRC purposes
5 that may lead to a correction. Right?

6 A No.

7 Q They're not?

8 A Those are the procedures to follow when you
9 actually do a correction.

10 Q So when it tells you that this is what you need
11 so that you'll have it and have of a protection of a trial
12 going to court, you're saying these are what you do after
13 you have already inspected?

14 A This is part of -- this is -- the inspection and
15 the correction -- this is information that you need to
16 have if you are going to do a correction. If you don't do
17 a correction, then what are you defending in court? You
18 didn't change anything.

19 Q well, sir, isn't what they teach you is that you
20 are to document each step so that if there is a later
21 challenge, you can show what the process was that you
22 followed so that the person could not later challenge and
23 say that's not my package, that's not how it was packaged,
24 those items weren't in there, it was something different?
25 Isn't exactly what you are doing so that you can document

1 each step so that each person, the shipper, cannot
2 challenge you later?

3 MR. MITCHELL: Objection.

4 THE COURT: Sustained.

5 BY MR. RAVENELL

6 Q With respect to this shipment, you didn't take
7 any pictures of the pallet before you opened it. Correct?

8 A No, I did not.

9 Q And what the Exhibit 6 tells us is not just that
10 you are to take photographs and not what the procedures
11 are, but tells you the order in which you are to take the
12 photographs. Correct?

13 A Correct.

14 Q And the first thing it tells you to do is take a
15 photograph of the pro number. Correct?

16 A Correct.

17 Q And it does tell you in Number 4 that you are
18 taking -- you are to open the cartons and take a
19 photograph. Correct?

20 A When we open the cartons --

21 Q No. Does it tell you to open the carton and
22 take a photograph, sir?

23 MR. MITCHELL: Your Honor, could we be directed
24 to the particular page?

25 MR. RAVENELL: Yes. It's still on page 11.

1 MR. MITCHELL: Thank you.

2 BY MR. RAVENELL:

3 Q Does it say, sir, the first photograph you are
4 to take is of the pro number?

5 A Yes.

6 Q Now after telling you to take the photograph of
7 the -- now where is the pro number generally located on a
8 package?

9 A If it has a pro label on it, it would just be
10 somewhere on the skid. There's no specific identifying
11 place for the label to appear. It will be just wherever
12 and sometimes there's not a pro label on it.

13 Q But it's usually on the outside?

14 A Usually on the outside. Correct.

15 Q Okay. Now what's listed in this section on
16 Inspection of Freight tells you to make sure that you have
17 all the pieces of the shipment before you start the
18 inspection. Correct?

19 A Correct.

20 Q All right. And where does it say that you open
21 the parcels, inspect it and then come back and follow the
22 steps set forth below?

23 A I don't understand what you're asking me.

24 Q Well, you just told the Court that the steps we
25 went through and the steps that are set forth in

1 Inspection of Freight is something that you do after you
2 have already searched the items and decided there's going
3 to be a correction. That's what you said. Right?

4 A After we search and that there's going to be a
5 correction, we measure the freight, we take the pictures.
6 We document it --

7 Q Go ahead.

8 A And we document it on our annotation sheets that
9 we have.

10 Q Didn't you tell us, sir, that -- well, if you
11 look at the photograph -- the order in which to take the
12 photographs. The fourth one after telling you to take
13 pictures of the pro number, the shipping label and the
14 packing list, then says open the carton to display the
15 contents. Correct? Is that not what it says, sir?

16 A Well, opening the cartons to inspect the
17 freight, that would be to display the contents. Yes.

18 Q But if you've already searched it, opened it,
19 seen what's there, you would not then be opening the
20 cartons. You will already have opened the cartons under
21 what you have told us. Right?

22 A I don't understand what you're asking me. Are
23 you saying that I have to do my job in a particular order?
24 I have to do this as Step 1 and this as Step 2 and this as
25 Step 3?

1 Q well, sir, I'm asking you is this what you're
2 taught in your modules?

3 MR. MITCHELL: Objection.

4 THE WITNESS: We are taught to inspect freight.
5 Yes.

6 BY MR. RAVENELL:

7 Q And you are taught through these particular
8 modules, you testified to the Court you were taught
9 through these 17 modules how to do your job. Correct?

10 A Correct.

11 Q All right. And what you were taught is what is
12 set forth in these modules as we're now discussing.
13 Correct?

14 A Correct.

15 Q Okay. And so let's go back to the point I asked
16 since you asked the question, but let's go back to the one
17 I asked.

18 A Yes, sir.

19 Q Earlier you said that no, I take the pictures
20 and do all these things after I have already searched the
21 item, after I've already inspected the cartons, now I take
22 the photographs. I asked you, sir, if that is the
23 procedure and you have set forth how to follow what you're
24 to do, if it gets to the fourth picture and you're now
25 being told to open the carton, that would make no sense if

1 you've already searched the carton and know what's there.
2 Correct?

3 A Pictures are the second to the last thing that
4 is generally done in an inspection as far as what happens
5 on the dock.

6 Q What I'm asking you, sir, is are these the
7 procedures in your module that you're taught to follow,
8 sir?

9 A The first thing that we have to do to even
10 determine whether there's an inspection is find out what's
11 in the carton or what's on -- what's with the shipment --
12 on the packing list with the shipment.

13 Q Well, you would already be doing the inspection,
14 you have already done the search if you find out what's in
15 the package, first. Correct?

16 A I would be doing the inspection -- searching or
17 inspecting the contents -- inspecting the contents of the
18 carton is part of the inspection.

19 Q And you are told to follow particular
20 procedures -- are you saying that you would ignore the
21 procedures that are set forth on your job?

22 A No, I'm not saying that I ignore the procedures
23 of my job.

24 Q So if these are the procedures that are set
25 forth that you are to take these to do certain things --

1 let's go back to exactly what you are taught on the page
2 before. That you are to have the pieces together. You
3 are to measure them. Verify the weight. Check for pack
4 listing. Then it says take a minimum of three photographs
5 and then gives you -- it says take the pictures in this
6 order. Those are the procedures you are told to follow.
7 Correct?

8 A Correct.

9 Q All right. And if you follow those procedures,
10 when you get to the fourth photograph, that is when you
11 are opening the carton to display the contents. Correct?

12 A No. I open the carton before I start my
13 photographs.

14 Q So you don't follow the procedures is what
15 you're telling me?

16 MR. MITCHELL: Objection.

17 THE WITNESS: I do follow procedures.

18 THE COURT: All right. Hold on. I'm going to
19 sustain the objection. At this point it's argument.

20 MR. RAVENELL: Got you, Your Honor.

21 THE COURT: Mr. Ravenell, you have certainly
22 shown what the procedure says. The order and the
23 procedure is clear. He has testified what he has done --

24 MR. RAVENELL: I've got you.

25 THE COURT: -- and I think we can move on.

1 MR. RAVENELL: Okay.

2 BY MR. RAVENELL

3 Q Now according to you, you open the pallet on
4 this date to determine the contents because you believed
5 the density and weight was wrong based on classification.
6 Is that right?

7 A I believe that the --

8 Q Is that right?

9 A -- the class was incorrect based on the weight
10 and the volume that I was looking at.

11 Q I think that's kind of what I just said. Do you
12 agree?

13 MR. MITCHELL: Objection.

14 MR. RAVENELL: I'll withdraw it, judge.

15 BY MR. RAVENELL:

16 Q And if the classification was wrong, you were
17 going to correct it so that YRC could be paid a proper
18 amount if there was an additional cost to be added.
19 Correct?

20 A Correct.

21 Q And that's what your job is. Right?

22 A Correct.

23 Q Now do you know why the first picture you are
24 supposed to take is of the pro number, sir?

25 A Because photographs -- we would have several,

1 various inspections on a camera and we go out with a
2 digital camera and the pro number starts the first picture
3 of a sequence for that particular shipment. So when you
4 go to rename your photographs in the computer, you know
5 that the last picture in that sequence ends when the next
6 pro number begins.

7 Q And you are taught that in Module 5. Correct?

8 MR. MITCHELL: Objection. Asked and answered.

9 THE COURT: I don't think so. Overruled.

10 BY MR. RAVENELL:

11 Q You are taught that in Module 5, sir?

12 A I believe in one of these, it says to start the
13 picture here with the pro number in Module 8-B.

14 Q But you are told that one of the reasons you do
15 it is to have that breaking point between the two
16 different jobs that's in Module 5. Do you remember which
17 module it's in?

18 A I see it right here in Module 8-B.

19 Q Module 8-B tells you that the first photograph
20 is of the pro number. Do you recall whether Module 5
21 tells you why the photograph is of the first -- of the pro
22 number?

23 A No. I don't recall why.

24 Q Okay. Sticking with Module 8-B, which is
25 Exhibit 6, you were told that your inspection is so that

1 YRC has support if a change is contested. Correct?

2 A What page are we on?

3 Q Turn to page 12.

4 A Page 12?

5 Q Yeah. If you look at the first section of page
6 12, the section that begins "Documentation is equal in
7 importance to the actual detection of improperly described
8 freight. It provides support in the event a description
9 change is contested. Poorly documented corrections can
10 result in a loss of revenue." Correct?

11 A Correct.

12 Q And that's one of the reasons why, particularly
13 why YRC tells you a couple of things. To make sure you
14 can defend this action in court and to follow the
15 procedure that we set forth in how to inspect a package
16 and document the inspection. Is that right?

17 A Right.

18 Q You're further told in Module 8-B, Exhibit 6 --
19 let me find my section.

20 MR. RAVENELL: Court's indulgence.

21 THE COURT: All right.

22 (Pause.)

23 BY MR. RAVENELL:

24 Q If you would turn to page 11 of Exhibit 6, sir,
25 which is Module 8-B?

1 A Was that page 11, sir?

2 Q Yes. At the bottom, it says Entering
3 Corrections. You are told by YRC that the corrections
4 cannot be made unless there is no doubt that the change is
5 correct because YRC does not want to have its credibility
6 compromised. Correct?

7 A Correct.

8 Q All right. And that is also why YRC tells you
9 to follow their setup set forth procedures in how to
10 document an inspection that is done for YRC purposes.
11 Correct?

12 A As it pertains to class change. Yes.

13 Q Well, that's what you were supposed to be doing
14 on this day. Right?

15 A Yes.

16 Q Class change. Right? Okay. Now according to
17 your testimony the last time you were here, you did not
18 anticipate finding contraband when you first decided to
19 open this pallet on April 17, 2013. Correct?

20 A Correct.

21 Q According to you, you were just to determine the
22 content because of this density and the weight was
23 questionable. Correct?

24 A Correct.

25 Q But you didn't take any pictures before opening

1 the package as YRC's policies and procedures sets forth.
2 Correct?

3 MR. MITCHELL: Objection. Asked and answered.

4 THE COURT: Overruled. I'll let him answer
5 again. You didn't take any pictures before you opened
6 this particular one. Is that right, sir?

7 THE WITNESS: No, I did not take any pictures.

8 BY MR. RAVENELL:

9 Q And you didn't document anything you did -- in
10 fact you didn't document anything that you did on this
11 particular date if you opened these packages for YRC
12 purposes. Correct?

13 A Correct.

14 Q How were you going to support your actions and
15 any corrections if the pallet didn't contain contraband
16 and there needed to be a correction issue?

17 A There wasn't a correction issue. There's
18 nothing --

19 Q I understand that.

20 A There's nothing to defend.

21 THE COURT: well, what if there had been? The
22 question was what if there had been. You open it up and
23 it turns out it's exactly what it said it was, there's no
24 correction. But now it's been opened. That's the
25 question he's asking.

1 BY MR. RAVENELL

2 Q That's one part. The second is and in fact you
3 open it, the class is off. It's not contraband. You now
4 are going to make a correction. How would you defend it
5 if you had not followed the procedures set forth by YRC?

6 A The procedures would have been followed. I
7 would have a documented report. The photographs would be
8 on file.

9 Q So you would go backwards to document that you
10 had conducted a search versus following the procedure and
11 documenting step by step as you are taught?

12 MR. MITCHELL: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: I think I understand what the
15 misunderstanding here is.

16 BY MR. RAVENELL:

17 Q Well, would you answer my question?

18 A I'm reviewing the -- could you ask one more
19 time, please?

20 Q Yes. If you had conducted an inspection and the
21 package did not contain contraband, but there is going to
22 be a correction needed and you had not documented the
23 steps as YRC told you to do to protect itself and its
24 credibility so it can defend itself in court, how would
25 you have done it if you hadn't followed the procedures?

1 A I would do what it says, it says to do. I open
2 the --

3 Q So you would go backwards and do what you didn't
4 do as they set forth in their policy?

5 MR. MITCHELL: Objection, Your Honor.

6 THE COURT: Overruled.

7 THE WITNESS: I don't understand the backwards.

8 THE COURT: Let me make it clear. You've talked
9 about the module. You've talked about the order in the
10 module. The module, training module says you do it in a
11 certain sequence. All right. And you take a picture
12 first of the number and then you go through each step in
13 the sequence, it says in the sequence. And then you open
14 it up and take the pictures.

15 The question is if you did not do that in this
16 particular case, so you hadn't done it in the sequence
17 that the training module says and you open it up and there
18 was not anything illegal about the contents, but you now
19 realize that the classification was wrong and you've got
20 to change it. You got to make the correction. You got to
21 charge them more. Then the only way that you could
22 document that is to go back and take the following
23 procedures that you should have done before you opened it
24 if the training manual is what you're following and do it
25 in reverse order. And the question is is that what

1 happened and if not, explain why.

2 THE WITNESS: What this module says it says
3 "take pictures in this order for ease of numbering and
4 downloading your pictures. Take pictures in this order.
5 The pro number, the shipping label, the packing list,
6 product shipped -- open cartons to display contents." The
7 cartons are already opened. We're already taken -- they
8 have already been opened. That's the next picture in the
9 sequence. Then pictures of how product intended for
10 shipment. Include all pieces. That's what we call a cube
11 shop of the overall shipment.

12 And if you have to take the picture, you know,
13 on one side. If it's multiple skids, you have to go
14 around the skids to get all the skids or if it's an
15 oversized skid or an oversized crane or whatever, you have
16 to take pictures to be able to show the whole cube. The
17 freight is already open. That product shipped -- open
18 cartons to display, that is the fourth series of pictures
19 in the sequence. It's already been opened. It's not take
20 these pictures and then open the cartons and then take a
21 picture. This is the order that the pictures are taken
22 in.

23 BY MR. RAVENELL:

24 Q Well, sir, you kind of glossed over Number 4.
25 You said -- when you got to Number 4, you said it's

1 already open. Where in your procedures set forth does it
2 say take pictures of something that's already open or
3 where or let me ask you this. If it was already opened
4 and you're now taking pictures, that could have been
5 written as simply take pictures of the items. Correct?

6 A I didn't author the module, sir.

7 Q But what it actually says is open the carton,
8 take photographs. Correct?

9 A What it says is take pictures in this order for
10 ease of numbering and downloading your pictures.

11 Q Are you just choosing to ignore Number 4 and
12 what I just said?

13 MR. MITCHELL: Objection. Argumentative.

14 THE COURT: It was argumentative. But the
15 witness is -- he's asking a very specific question about
16 what's in that module. It says open carton, take pictures
17 and he's asking you whether it says that. Either it does
18 say it or it doesn't.

19 THE WITNESS: Yes. It does say that.

20 THE COURT: All right. Next question.

21 MR. RAVENELL: Thank you, Your Honor.

22 BY MR. RAVENELL

23 Q If you would turn to page 14 of Exhibit 6? The
24 company actually sets forth in examples of photographs of
25 how you are to follow procedure. Doesn't it? It shows an

1 unopened pallet in the first set of photographs and says
2 photos of the pro and size of shipment. Do you see that?
3 Do you see that, sir? Are you just ignoring me or you
4 didn't hear me?

5 A No, sir. I'm sorry. I'm reading the -- where
6 it says example correction, you said --

7 Q Yes. Your company actually sets forth giving
8 you photographs of example of how a correction is done.
9 Correct?

10 A This is an example correction. Yes.

11 Q Yes. That's what I just said. It's an example
12 of a correction. Do you agree?

13 A Yes.

14 MR. MITCHELL: Objection.

15 THE COURT: Overruled.

16 BY MR. RAVENELL:

17 Q And it's an example of a correction where you're
18 taking the photos of the pro number and the size of the
19 shipment. These shipments are in tact, not open.
20 Correct?

21 A You say of the pro number and then the next
22 photo over. That's a photo of the shipment in tact --

23 Q Sir, I'm reading exactly what you're seeing. Do
24 you see the photographs?

25 A I see the photograph of the pro number to the

1 top left and of the cube of the shipment on the top right.

2 Q So when they give you an example, your employer
3 is giving you an example of how the photos are to be
4 taken. They've given you an example of taking these
5 photographs of the pro number before the packages are
6 opened. Correct?

7 A That's what the example shows.

8 Q Okay. And then in the next set of photographs
9 where it tells you to take photos of the packing list and
10 the product label with part number and description, you
11 can see on the second photograph that the wrapping is
12 still on the packaging at that time as well. Correct?

13 A Correct.

14 Q So again it's not yet open. Correct?

15 A Correct.

16 Q And then when they get to the point of taking a
17 photograph of the product, you now see that the product
18 has now been opened. Correct?

19 A You can see that the product in that photograph
20 that the product is opened.

21 Q Right. Which is consistent with the procedure
22 that is set forth on page 11 and -- 10 and 11. Correct?

23 A Correct.

24 Q Sir, with your years on the job, you know what
25 you are supposed to do if you were really opening this

1 package because of your concerns about density and weight
2 and if you were doing this for a YRC inspection. Correct?

3 A About density and weight. Yes.

4 Q You know exactly what you are supposed to do if
5 you were really doing an inspection for YRC purposes.
6 Correct?

7 A Yeah. I know what I'm doing when I do
8 inspections. Correct.

9 Q You know what you are supposed to do. Correct?

10 A Yes.

11 Q And in fact you told us that you were good at
12 your job.

13 A Correct.

14 Q Your employers value you and they send you out
15 to train other W & I coordinators. Correct?

16 A Correct.

17 Q Again because you told us that because you
18 follow procedures. Remember telling me that earlier?

19 A Correct.

20 Q And in fact you said you know the procedures of
21 your job and you in fact told us earlier you followed
22 those procedures. Correct?

23 A (Indicating affirmatively.)

24 Q Was any of that a lie when you told me that?

25 A No.

1 Q All right. Now, sir, you've testified
2 previously on January the 13th of 2014 that you first
3 discussed this case with the government on 18th of
4 November, 2013. Do you remember telling us that?

5 A Yes.

6 Q And you told us that during this meeting with
7 the government, in fact you testified that you explained
8 your job description to them. Correct?

9 A Correct.

10 Q You told us that you told the government that
11 you are a W & I coordinator and that you inspect classes
12 of freight for commodity classification. Correct?

13 A Correct.

14 Q And you also told us that you told the
15 government what triggers an inspection. Correct?

16 A Correct.

17 Q Now on January the 13th when you were here, you
18 testified under oath that when you talked with the
19 government on 11-18-13, you told them that the reason you
20 opened the pallet was because based on your three-second
21 inspection, you determined that the pallet did not weigh
22 30 pounds per cubic feet as described on the waybill.
23 Correct?

24 A Correct.

25 Q And on January the 13th, you testified that you

1 told the government no other reason, you gave them no
2 other reason for opening that pallet. Correct?

3 MR. MITCHELL: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: I recall telling -- I thought I
6 mentioned something about there might have been some
7 advertising on or something to indicate on the boxes that
8 it may have been wheels that was with the shipment.

9 BY MR. RAVENELL:

10 Q Might have been wheels. Okay. Now I asked you
11 the question --

12 MR. RAVENELL: Give me the transcript for
13 January 13, 2014. Do we have that loaded?

14 MS. CHUN: Yes.

15 BY MR. RAVENELL

16 Q Now I'm asking the questions. I was asking you
17 what you in fact told the government. And at line 13, I
18 asked you, and that's what you told the government on
19 11-18-2013. You said yes. And I asked you did you tell
20 them anything else? And you said no. So let's go back
21 and see what you told us that you told the government
22 previously. Go back up, please. Stop right there.

23 Here's what you said you told the
24 government. "I told them that the container containing an
25 inner container and I opened that container. Within that

1 container, there was another container inside. I opened
2 that container. I cut open the bale. I wasn't sure what
3 it was. It was not rims and wheels. So I told my
4 supervisor we have the commodity and the shipment
5 segregated. I took the container to his office." Now I
6 asked you whether you told them anything else and your
7 answer was no.

8 Now did you tell the government, sir, about
9 the rims and wheels that you are now telling us about?

10 A I don't recall.

11 Q Okay.

12 A I mean --

13 Q Now you told us that after your January -- after
14 your meeting with the government in November, that you
15 wrote down -- this is what you testified the last time you
16 were here. "That you wrote down the synopsis specifically
17 in order to keep your memory refreshed." Do you recall
18 telling us that?

19 A Yes.

20 Q Okay.

21 A I believe so.

22 Q And if we pull up page 45 of the transcript,
23 lines 5 through 7? And "Question: And what prompted you
24 to write this synopsis after you spoke to the government
25 on 11-18-2013?" Your answer: I wrote it just to keep my

1 memory refreshed." That's what you said.

2 A Okay.

3 Q Now and according to you, what you wrote down on
4 November 2013 was the reason you opened the pallet was
5 because of the density and weight, specifically the weight
6 of the shipment on the waybill and the actual weight on
7 the pallet based on that classification did not match.
8 Correct?

9 A Correct.

10 Q You then testified that you talked to the
11 government again in January of 2014. Correct? In fact,
12 you told us that you talked to the government about a week
13 before that last hearing. You remember that?

14 A No. I don't recall. But --

15 Q You don't recall that you testified that you
16 spoke with the government twice. Once in November --

17 A Yes. Yes, I did.

18 Q Let me finish the question.

19 A Yes. I'm sorry. I recall. Yes.

20 Q You testified that you spoke to the government
21 once in November 2013 and then again in January 2014,
22 about a week before you testified on January 13, 2014.
23 Correct?

24 A I did speak with them twice. As far as the
25 date, I don't recall.

1 Q And when I asked you what you told the
2 government about why you opened the package on that date,
3 you said I told the government the same thing in both
4 conversations. That's what you told the government. The
5 same thing in both conversations?

6 A I believe so.

7 Q Mr. Arrowood, despite your testimony that you
8 told the government about this density and weight reason
9 in November 2013, that you wrote it down in November so
10 you wouldn't forget it and despite your testimony that you
11 told the government about this density and weight reason
12 both times you talked to them, you are aware that the
13 government has told this Court that you did not tell them
14 anything about density and weight either time you met with
15 them in November or January of 2014. Are you aware of
16 that?

17 MR. MITCHELL: Objection, Your Honor.

18 THE COURT: Sustained.

19 MR. MITCHELL: The government said no such
20 thing.

21 THE COURT: I said sustained.

22 BY MR. RAVENELL

23 Q Now if you had in fact opened this package
24 because of the density and weight issue, there would be no
25 reason for you not to tell the government this when you

1 met with them in November 2013. Correct?

2 A Could you repeat the question. please?

3 Q Sure. If the reason you opened this package
4 because of the density and weight issue, there would be no
5 reason for you not to tell the government about that
6 reason when you met with them in November 2013. Correct?

7 A Correct.

8 Q And if you opened the package because of the
9 density and weight issue, there would be no reason for you
10 not to tell the government about this in January of 2014
11 when you met with them. Correct?

12 A Correct.

13 Q And in fact if you had written this density and
14 weight reason down in November 2013 to make sure you
15 didn't forget it, if that was the reason you opened it,
16 there would be no reason not to tell the government about
17 it when you met with them in November and January.
18 Correct?

19 A Correct.

20 Q You are aware that the government has told the
21 court that there is only one reason that you told them you
22 opened the package?

23 MR. MITCHELL: Objection.

24 THE COURT: The question is are you aware of
25 that.

1 BY MR. RAVENELL:

2 Q Are you, sir?

3 THE COURT: Let me just -- do you have any
4 knowledge of whether or not the content of any
5 conversation that may have occurred between the government
6 and myself when you were not here about what you may or
7 may not have told them?

8 THE WITNESS: No, sir.

9 THE COURT: All right. Next question.

10 BY MR. RAVENELL

11 Q Now and the government's attorneys wrote back in
12 December 2nd of 2013 to this Court the following: "The
13 YRC inspector observed that the waybill for Target Pallet
14 1 described the contents of the shipment as rim while at
15 least one of the boxes in the pallet described the
16 contents as wheels. Because rims and wheels have
17 different commodity classification, the YRC inspector
18 elected to open Target Pallet 1 to determine its actual
19 content."

20 Now nowhere in what the government told the
21 Court as the reason for opening these packages does it
22 mention density, cube or weight, does it?

23 A Not mentioned in what you just read to me, no.

24 Q The government mentions that it was -- the
25 reason given was because of there is a discrepancy between

1 wheels and rims. Correct?

2 MR. MITCHELL: Objection.

3 THE COURT: Sustained.

4 BY MR. RAVENELL

5 Q Now you testified under oath at the last hearing
6 when I first asked you this question that you did not tell
7 the government that rims versus wheels was the reason you
8 opened the pallet. Is that true?

9 A Could you repeat the question, please?

10 Q Sure. When you were here the last time and I
11 asked you questions, I asked you whether you represented
12 to the government that you opened this package for the
13 reasons they set forth in their pleadings I just read to
14 you. And you said you never told the government that.
15 Isn't that what you first said?

16 A I don't recall.

17 Q Okay. Let's go to the transcript. Pull up page
18 106, line 16. I asked you this question at line 16. "The
19 government represents that the YRC inspector observed the
20 waybill for Target Pallet 1 described the contents of the
21 shipment as rims; while at least one of the boxes of the
22 pallet describes the contents as wheels. Because rims and
23 wheels have different commodity classification, YRC
24 inspector elected to open Target Pallet 1 to determine the
25 actual content. Question: Did you ever tell the

1 government that's why you opened the pallet? Your answer:
2 No. I did not tell the government that's why I opened the
3 pallet." That was your testimony.

4 A Correct.

5 Q You were under oath?

6 A Yes.

7 Q You were here to tell the truth?

8 A Yes.

9 Q Did you tell the truth when you testified here
10 the last time, sir?

11 A To my knowledge, yes.

12 Q To your knowledge, you told the truth. Did you
13 tell the truth, sir?

14 A Yes. I did not tell the government that's why I
15 opened the pallet.

16 Q Okay. So if you didn't tell the government
17 that, do you know if the government -- well, did they just
18 make it up?

19 A The reason why I opened the pallet --

20 Q You didn't tell the government that. Right?

21 MR. MITCHELL: Objection.

22 THE COURT: well, the question is -- the
23 question before was objectionable. The question now is --

24 MR. RAVENELL: I'll withdraw, Your Honor.

25 THE COURT: All right.

1 MR. MITCHELL: And for completeness, Your Honor,
2 the government would request that the lines 107 at page
3 107, lines 4 to 6 also be read into the record.

4 THE COURT: Okay. So let me -- Rule 106, the
5 rule of completeness allows that. So let's go to 107.
6 And what lines?

7 MR. MITCHELL: The top of the page, Your Honor.
8 It's just a continuation of the testimony from last time
9 on this particular topic.

10 THE COURT: Okay. So you want the line 4, "No.
11 I told that to Mark Gladfelter."

12 MR. MITCHELL: Thank you, Your Honor.

13 THE COURT: All right.

14 MR. RAVENELL: I don't think it's a rule of
15 completeness. But it is not part of the rule of
16 completeness, but I have no problem with the Court still
17 having it. It's in the transcript.

18 THE COURT: Well, we're going to agree to
19 disagree. But I have seen it anyway, Mr. Ravenell.

20 MR. RAVENELL: That's fine.

21 BY MR. RAVENELL

22 Q Now, sir, this weight, density reason that you
23 testified to in January of 2013 that you didn't tell the
24 government about in November and you met with them and
25 didn't tell them about it in January when you met with

1 them, that's something you came up with after you did your
2 own legal research, isn't it?

3 MR. MITCHELL: Objection.

4 THE COURT: Overruled.

5 THE WITNESS: No.

6 BY MR. RAVENELL

7 Q It's a made-up reason that you came up with
8 after you did some legal research?

9 MR. MITCHELL: Objection.

10 THE COURT: The question is is that true. Yes
11 or no?

12 THE WITNESS: No.

13 BY MR. RAVENELL

14 Q Now you testified previously that you did some
15 legal research focusing on whether you could be deemed as
16 a government agent or acting for law enforcement.
17 Correct?

18 A I did my -- I did research to see if there was
19 precedence for what I do. My job description. Yes.

20 Q Well, you also testified that you were -- wanted
21 to confirm that you were not a law enforcement officer.
22 Correct?

23 A Correct.

24 Q And that's what your research was focused on was
25 whether you in fact were law enforcement when you did this

1 search. Correct?

2 A No. That wasn't the sole --

3 Q I didn't say sole.

4 A That was one of the areas that I looked at.

5 Correct.

6 Q Right. Was whether you in fact were law
7 enforcement. Correct?

8 A Correct.

9 Q And you testified that you did this research the
10 night before and two nights before the hearing on
11 January 13, 2014. Correct?

12 A I don't recall when exactly.

13 MR. RAVENELL: Give me page 48, lines 4 to 6,
14 please.

15 BY MR. RAVENELL:

16 Q Now the answer that you gave to the question was
17 when I was asking about your research said "would you tell
18 me what it is -- what that is, sir? You said it's just
19 some information that I was looking up on the Internet
20 last night and the night before or last."

21 A Okay.

22 Q And when you give that testimony, that was
23 truthful testimony?

24 A Yes.

25 Q And when you did this research and part of it

1 was about whether you were in fact were a law enforcement
2 officer, it was after doing this research that you came
3 into court and then told the Court that there was this
4 density, weight issue that led to your searching of this
5 pallet. Correct?

6 A It was the density, weight issue that led to the
7 search of the pallet.

8 Q So I'm saying after you did that research is
9 when you gave that testimony. Correct? You had conducted
10 the research before your testimony?

11 A Yes.

12 Q Let's talk about the security training or
13 security directives. Would you say that part of your
14 duties as a YRC coordinator is to check or inspect inbound
15 shipments?

16 A Yes. I inspect inbound shipments.

17 Q Now we've been told by your employer at YRC that
18 you have received and reviewed documents called YRC's
19 General Plans. Is that correct?

20 A General what, sir?

21 Q General security -- Security General Plans.
22 Excuse me.

23 A I don't have a recollection of that document.

24 Q Okay. Let me see.

25 MR. RAVENELL: May I approach to get a document,

1 judge?

2 THE COURT: Yes.

3 MR. RAVENELL: Your Honor, I don't know when you
4 want to break --

5 THE COURT: We're going to break for lunch at 1.

6 BY MR. RAVENELL

7 Q I'm going to show you a series of documents or
8 exhibits. Exhibit 9, which is in evidence. Exhibit 33,
9 34 and 35.

10 THE COURT: 9, 33, 34, 35?

11 MR. RAVENELL: Yes.

12 THE COURT: And they're all previously been
13 admitted, sir?

14 MR. RAVENELL: Actually, only 9 has been
15 previously admitted. I'm moving in the other documents,
16 33, 34, and 35.

17 THE COURT: All right.

18 BY MR. RAVENELL

19 Q Okay. Let's talk about these four exhibits,
20 sir. Now these four --

21 MR. MITCHELL: Just so the record is clear, Your
22 Honor, I believe there are two Exhibit 9's that's been
23 introduced by defense counsel in this case and it's
24 unclear to the government which one we're referring to.

25 THE COURT: All right.

1 MR. RAVENELL: The 9 from today. So let me just
2 make sure we're clear. Mr. Mitchell, it will be the 9
3 that was introduced earlier.

4 THE COURT: The 9 one is Policy Number SEC-022.
5 And we can -- is that the court copy?

6 MR. RAVENELL: Yes, judge.

7 THE COURT: All right. Let's just make the
8 notation 042914 on the exhibit label so it's clear which
9 Exhibit 9 this is if there was an earlier exhibit 9.

10 MR. RAVENELL: I have put that on it, judge.

11 THE COURT: All right. Thank you. All right.
12 You'll move the admission of the other ones when you want
13 them?

14 MR. RAVENELL: Yes, Your Honor. I would move
15 the other exhibits into evidence. 33, 34 and 35.

16 MR. MITCHELL: No objection.

17 THE COURT: All right. They're in.

18 (Defense Exhibit Numbers 33, 34, 35 were
19 admitted into evidence.)

20 BY MR. RAVENELL

21 Q Now these are provided to us by your employer,
22 YRC, as items distributed to all employees, including you,
23 Mr. Arrowood. Are you familiar with the Security General
24 Plans, sir?

25 A No.

1 Q Now are you telling us that you have not seen
2 the Security General Plans?

3 A I'm telling you I have never seen these
4 documents before.

5 Q Okay. Now how do you normally get documents
6 from your company that the company wants you to see like
7 all employees?

8 A It would be generally email.

9 Q Generally email?

10 A Yes, sir.

11 Q All right. So you've met a gentleman,
12 Mr. Robert Wood, out in the hallway since you've been here
13 the last few times?

14 A Yes.

15 Q Okay. And who is Mr. Wood?

16 A Mr. Wood told me that he was a dock supervisor
17 or general -- he's a dock supervisor down in Raleigh I
18 believe.

19 Q All right. Now let me show you another exhibit.
20 Exhibit 32.

21 A I don't have 32.

22 Q I'm going to give it to you.

23 A Oh.

24 Q I want you to look at Exhibit 32 and Exhibit 9
25 together, sir.

1 A And 9?

2 Q Yes, sir.

3 THE COURT: All right. Any objection to us
4 considering Exhibit 32?

5 MR. MITCHELL: No objection, Your Honor.

6 MR. RAVENELL: Your Honor, we would move 32.

7 THE COURT: Thank you. All right. It's in.
8 (Defense Exhibit 32 was admitted into evidence.)

9 BY MR. RAVENELL:

10 Q Now, sir, if you look at Exhibit 32 and Exhibit
11 9 and the effective date up on the top left corner. For
12 Exhibit 9, it shows an effective date of July 13, 2011.
13 Do you see that?

14 A Yes, sir.

15 Q And the effective date for the Exhibit 32 is
16 April 18 of 2013, one day after your search of these
17 pallets on April the 17, 2013. Correct?

18 A Correct.

19 Q And have you seen Exhibit 32, sir?

20 A No, sir.

21 Q All right. So Exhibit 9 and Exhibit 32, which
22 deals with suspected illegal shipment procedures, you as a
23 dock worker have never seen it?

24 A No.

25 Q Okay. Now at the bottom on the first page of

1 Exhibits 9 and Exhibit 32, would you read what it says in
2 italicized letters down below?

3 A It says "anyone involved in checking inbound
4 shipments or receiving freight at origins should be aware
5 of these conditions. If you are unsure of any of the
6 above items, consult with your assigned security
7 investigator."

8 Q Okay. And you've just told us that you are in
9 fact are involved in checking and inspecting inbound
10 shipments?

11 A Yes.

12 Q All right. Yet, you tell us that you were not
13 aware of procedures set forth by YRC for its employees in
14 a Security General Plan called Suspected Illegal Shipment
15 Procedures?

16 MR. MITCHELL: Objection.

17 THE COURT: Did you understand the question,
18 sir?

19 THE WITNESS: I'm sorry, sir. I didn't hear
20 you.

21 THE COURT: Did you understand the question that
22 was just asked?

23 THE WITNESS: He asked me if I understand what
24 this -- he asked me that if I check inbound shipments --

25 THE COURT: Why don't you wait for another

1 question because -- let's have another question, Mr.
2 Ravenell.

3 MR. RAVENELL: Sure, Your Honor.

4 BY MR. RAVENELL:

5 Q You told us that you are involved in checking
6 inbound shipments. Let's back up to that. Is that right?

7 A Correct.

8 Q And this section, this document that is entitled
9 or policy name, Suspected Illegal Shipment Procedure says
10 that it should be -- that you or a person checking inbound
11 shipment should be aware of, one that was issued just a
12 day after this particular incident, you are telling the
13 Court you have never seen this document that is issued to
14 all employees?

15 A I'm telling the Court that I have never seen
16 this document. Correct.

17 Q Okay.

18 THE COURT: Is this a good time to break for
19 lunch, Mr. Ravenell?

20 MR. RAVENELL: That would be fine, judge. I'm
21 still going to be in this area. But that's fine to break
22 as well.

23 THE COURT: Okay. Let's take a -- let's see if
24 we can't be back here at quarter to 2. It's five of 1.
25 If we can all get by with a 45-minute lunch rather than a

1 full hour.

2 MR. RAVENELL: That's fine.

3 THE COURT: And we'll stand in recess.

4 (Luncheon Recess.)

5 AFTERNOON SESSION

6 THE COURT: All right. Mr. Arrowood, sir, you
7 are still under oath. And, Mr. Ravenell, whenever you are
8 ready, sir.

9 MR. RAVENELL: Thank you, Your Honor.

10 BY MR. RAVENELL

11 Q Mr. Arrowood, right around the time that we
12 broke for lunch, I was questioning you about a series of
13 documents entitled Security General Plan from YRC,
14 Exhibits 33, 34, 35 and 9. Do you have those, sir?

15 A I have 9, 32, 33, 34 and 35. Yes, sir.

16 Q And I told you that YRC represented that all
17 employees receive these documents and you've told us that
18 you have never seen these documents. Is that correct?

19 A That is correct, sir.

20 Q Okay. Now in spite of whether you have seen the
21 documents, let me turn -- ask you about Exhibit 9. Do you
22 have that?

23 A Yes, sir.

24 Q All right. So Exhibit 9 as I pointed out to you
25 earlier says at the bottom that anyone involved in

1 checking inbound shipment or receiving freight at origin
2 should be aware of these conditions. Do you see that at
3 the bottom, sir?

4 A Yes. In italics, in italics down here?

5 Q Yes.

6 A Yes, sir.

7 Q And then if you ask yourself what are these
8 conditions. If you go back up, there are several
9 procedures that are listed. Do you see that? 1 through
10 9?

11 A Yes, sir.

12 Q Okay. And these are procedures that YRC dock
13 workers are trained on. Correct?

14 MR. MITCHELL: Objection.

15 THE COURT: well, let him finish reading them
16 first. And what's the basis of your objection?

17 MR. MITCHELL: The witness has already testified
18 that he's never seen those documents before, Your Honor.

19 THE COURT: well, he doesn't have to have seen
20 the document to answer the question whether those are
21 procedures he's been trained on. So overruled.

22 THE WITNESS: Sir, I've read the 1 through 9.
23 Could you repeat your question, please?

24 BY MR. RAVENELL:

25 Q Yes. These are procedures that you as a dock

1 worker have been trained on at YRC. Correct?

2 A No. Not me.

3 Q Not you what?

4 A Not -- I wasn't trained on this. This
5 doesn't -- these are not like -- I don't deal with the
6 bill of lading. The phone numbers -- I don't deal with
7 the phone numbers. Location of origin freight exists, but
8 company is fictitious. I don't look to see if a company
9 is fictitious. Bill of lading is company issued. The
10 bill of lading, I rarely see. I see a movement copy of a
11 waybill. First time or non-frequent shipper. I don't
12 know whether or not it's the first time that somebody
13 shipped. I don't look to see if they are a first time or
14 a non-frequent shipper.

15 Q Well, actually, there is a way for you to do
16 that which is to check with the SHPI. Correct?

17 A SHPI is information on a specific pro.

18 Q And you can actually check the SHPCOR?

19 A SHPCOR tells if there's been a correction done.

20 Q Right.

21 A It doesn't tell whether they are a frequent
22 shipper or whatever. It just tells if there's been a
23 correction done in the past.

24 Q It tells you about whether there's a history of
25 a particular shipper. Correct?

1 A It tells you if there was -- if there had been a
2 correction done on a previous shipment.

3 Q Okay. So the factors that are set forth here
4 that YRC said that the dock workers are trained on that
5 Bob -- I'm sorry. Bob Wood. You said you talked to Bob
6 Wood earlier. Correct?

7 A The gentleman that was here earlier today.
8 Correct.

9 Q Did he tell you that he was a dock worker --
10 dock worker supervisor in North Carolina?

11 A I think he's a dock supervisor in North
12 Carolina.

13 Q All right. So you're telling us that these
14 factors that YRC set forth back to the dock workers,
15 people who are dealing with inbound shipment should have
16 knowledge of, you, who deal with inbound shipment, have
17 never been trained regarding these particular factors or
18 procedures. Is that correct?

19 A These particular fact -- I'm sorry. I didn't
20 let you finish.

21 Q Is that your answer? That you have not been
22 trained? You deal with inbound shipments?

23 A When I deal with inbound shipments, I deal with
24 the inbound shipments as they pertain to commodity
25 classification. I look for a shipment that's

1 misclassified --

2 Q So let me -- I'm sorry.

3 A -- as far as commodity classification.

4 Q I cut you off. Now are you telling the Court
5 that you are never trained at YRC to look for suspicious
6 packages and suspicious parcels?

7 A Suspicious packages to us in the -- in my
8 department is a shipment that doesn't match the criterion
9 of a weight versus volume versus class shipped.

10 Q So that's the only thing that would make
11 a package -- that you are trained about that makes a
12 package suspicious is weight and class. That's it?

13 A Weight, class, the volume that is taken up.
14 There's a lot of different factors that determine freight
15 classification.

16 Q But what you're telling the Court is that when
17 YRC represents that you an employee as a dock worker are
18 trained on these particular procedures, you're saying
19 that's not accurate?

20 MR. MITCHELL: Objection, Your Honor.

21 THE COURT: Overruled.

22 BY MR. RAVENELL:

23 Q Is that what you are saying, sir?

24 A I'm saying that these procedures right here
25 don't pertain to what I do.

1 Q No. That's not what I asked you. I asked you
2 whether you are trained on those particular fact --
3 whether you think it pertains to what you do or not. YRC
4 represents that dock workers who deal with inbound
5 shipments are trained on these particular factors to look
6 for suspicious packages. Are you telling this Court you
7 are not trained about these particular factors?

8 A On these particular procedures here, 1 through
9 9, no.

10 Q Okay. All right. Now YRC submitted a document
11 which I'll ask you to look at as Exhibit 19 called a
12 Security Profile. I'm going to ask you to turn to page 36
13 of that document. If you would just look at the
14 information set forth on page 36 for a moment?

15 THE COURT: Which document number, sir?

16 MR. RAVENELL: Exhibit 19, Your Honor.

17 THE COURT: Thank you.

18 BY MR. RAVENELL

19 Q And I've turn it to page 36 for you, sir.

20 A Yes. I see 36 down at the bottom.

21 Q Okay. Now where YRC indicates -- excuse me --
22 there is a section above that says Instructions and the
23 second sentence says customs and/or other appropriate law
24 enforcement agencies must be notified if illegal or
25 suspicious activities are detected -- as appropriate. And

1 there is something called a response. And in the response
2 if you go down to the one, two, three, four, fourth line,
3 you go halfway into that line, you'll see a sentence that
4 begins with drivers. Do you see that?

5 A Yes.

6 Q And then the second thing is dock workers. It
7 goes on to say they are trained to identify suspicious
8 cargo. And then listed below are examples which may
9 indicate a contraband shipment or other illegal activities
10 taking place. Now you do work on the docks. Correct?

11 A Yes, I do work on the dock.

12 Q And YRC sets forth certain factors that the
13 employees and dock workers that are trained about in
14 looking for suspicious or illegal -- excuse me -- indicate
15 contraband shipment or other illegal activity. And if you
16 look at the list of things that are set forth, they are
17 pretty much the same items that are set forth in Exhibit
18 9. Correct?

19 A It would appear so.

20 Q Okay. All right. And if YRC represented to the
21 government that dock workers to include you are trained on
22 these factors to look out for suspicious packages that
23 contain contraband, would they be wrong in making that
24 representation?

25 MR. MITCHELL: Objection as to form.

1 THE COURT: The question is have you been
2 trained as that document you just looked at, Document
3 Number 19 on page I think it was 36 --

4 MR. RAVENELL: That's correct, judge.

5 THE COURT: -- it makes statements that describe
6 how YRC trains its dock -- the employees that work on the
7 docks. The question to you is did you receive the
8 training described in that paragraph with regard to the
9 work that you do?

10 THE WITNESS: In regard to work that I do, I am
11 not trained to identify suspicious cargo as it pertains to
12 contraband.

13 THE COURT: Have you ever received training
14 separate and apart of whether its due to your specific
15 job, have you ever received training from YRC about that
16 subject matter?

17 THE WITNESS: No, I have not. This is the first
18 time I've had something with C-TPAT in my hand.

19 THE COURT: Okay.

20 BY MR. RAVENELL

21 Q Now a corporate security manager for YRC
22 testified previously that indicators for suspicious
23 packages that employees are trained about includes the
24 following. Just listen to the list. The manner in which
25 the freight is packaged, the failure to request a

1 discount, the identity of the shipper, the fact that the
2 shipper and the consignee are the same and the
3 non-existent or invalid contact number. would those be --
4 would you agree that those are factors or indicators that
5 you as a YRC employee, dock worker had been trained to
6 look for for suspicious packages?

7 A I wasn't trained on that.

8 Q Okay. If another indicator had been set forth
9 as one that employees are trained to look for is whether
10 the person or the shipper paid extra to have the freight
11 delivered, is that one of the factors that you have been
12 trained by YRC to look out for for suspicious packages or
13 packages that might contain contraband, sir?

14 A No. I wasn't trained on how revenue resolution
15 happens.

16 Q Revenue resolution?

17 A Or paid. How --

18 Q I didn't ask you about revenue resolution. I
19 asked you particularly whether you had been trained by YRC
20 as one of the factors or indicators you look for as to
21 whether a shipper has paid extra to have the shipment
22 delivered, sir.

23 A No. I was not trained on that.

24 Q Okay. So if I understand you correctly, in
25 spite of Exhibit 9 and 19, the existence in YRC's

1 representations, you are telling the Court you've never
2 seen or been trained on any of these particular factors
3 that are set forth in Exhibit 9 and 19?

4 A No.

5 MR. MITCHELL: Objection.

6 THE COURT: Sustained. Already answered.

7 BY MR. RAVENELL

8 Q As we discussed, you have been taught as you
9 told us from the 17 modules. Correct?

10 A Correct.

11 Q Let me direct your attention to --

12 MR. RAVENELL: Court's indulgence.

13 THE COURT: All right.

14 (Pause.)

15 MR. RAVENELL: Let me show you what has been
16 marked as Exhibit 2 for the -- yes. 42914.

17 THE COURT: Any problem considering this?

18 MR. MITCHELL: No, Your Honor.

19 THE COURT: All right. It's in.

20 (Defense Exhibit 2-42914 was admitted into
21 evidence.)

22 BY MR. RAVENELL:

23 Q Now this module which was Exhibit 2 for this
24 hearing on the first page indicates it's a W & I
25 Department Training Manual Module 1-B. Correct?

1 A Correct.

2 Q Okay. And if you turn to page 5, it sets
3 forth -- there's a section at the bottom called Duties and
4 Responsibilities. Do you see that?

5 A I'm there, sir.

6 Q Okay. At the bottom of the section, you found
7 the section that says Duties and Responsibilities? Sir?

8 A Yes, sir.

9 Q I need an answer from you.

10 A Oh, what was the question, sir?

11 Q Just whether you had found that section --

12 A Yes, sir.

13 Q -- that says Duties and Responsibilities?

14 A Yes.

15 Q Now if you turn to the next page on Number 4, in
16 Number 4, the second sentence says as to your duties and
17 responsibilities to use and develop best practices to
18 engage internal consumers and dock workers to help
19 identify suspect shipments. Now you did go through these
20 modules for training. Correct?

21 A Yes.

22 Q And you went through these modules for training.
23 Were you trained then to use best practices to look out
24 for suspect shipments?

25 A As it pertains to commodity classification, yes.

1 Q So you were told that the only thing you should
2 look out for is commodity classification and not consider
3 any of the other factors we talked about previously?

4 A That's my training sir. Commodity
5 classification.

6 Q I know what your job title is. But I also know
7 that you have duties and responsibilities. Correct?

8 A Yes, sir.

9 Q All right. Okay. And one of the things that
10 you are a dock worker. Correct?

11 A I'm a W & I coordinator. Yes.

12 Q And you work on the dock, sir?

13 A I work on the dock.

14 Q All right. Thank you. Now were you given
15 training, sir, about how you are to react if you come
16 across a package that you suspect might have a bomb in it?

17 A No, sir.

18 Q Never?

19 A Not that I recall. No, sir.

20 Q So YRC never gave you training while you have
21 been there for seven years how you would react if you came
22 across a package you suspect might have a bomb in it?

23 MR. MITCHELL: Objection.

24 THE COURT: Overruled.

25 THE WITNESS: No, sir. Not to my knowledge.

1 BY MR. RAVENELL:

2 Q Do you have Exhibit 35 in front of you, sir? Do
3 you have that?

4 A Yes.

5 Q And Exhibit 35, that's been represented as given
6 to all YRC employees is entitled Bomb Threat, Suspicious
7 Packages and Envelopes Procedure. See that?

8 A Yes, I do.

9 Q All right. And would you take a moment just to
10 review that, sir?

11 THE COURT: Just housekeeping, Mr. Ravenell. Is
12 this in already?

13 MR. RAVENELL: Yes, Your Honor.

14 THE COURT: All right. Thank you.

15 THE WITNESS: I don't recall any training or
16 seeing this document.

17 BY MR. RAVENELL:

18 Q Okay. So this document that sets forth how YRC
19 employees should respond if there's a bomb threat,
20 suspicious package, considering that YRC handles thousands
21 and thousands of packages, you have never been trained how
22 you would respond if a situation occurs that might have a
23 bomb in the package?

24 MR. MITCHELL: Objection.

25 THE WITNESS: No.

1 THE COURT: Overruled.

2 BY MR. RAVENELL:

3 Q So if YRC represents that this information was
4 given to all employees, it missed you?

5 MR. MITCHELL: Objection, Your Honor.

6 THE COURT: Sustained.

7 BY MR. RAVENELL:

8 Q Now you've told us that you have a email, a YRC
9 related email address. Correct?

10 A Correct.

11 Q And your email is -- is it -- what is your email
12 address?

13 A It's -- do you want me to spell it out or just
14 say it.

15 Q You can just say it.

16 A Tommy.Arrowood@YRCW.com.

17 Q And part of your daily tasks requires you to
18 review and respond to emails. Correct?

19 A Correct.

20 Q In fact, you were told that you have been given
21 a time of at least 15 minutes per day that you are
22 supposed to review and respond to emails. Correct?

23 A Yes.

24 Q Now you received security alert bulletins by
25 email from YRC?

1 A Not that I recall.

2 MR. RAVENELL: May I approach?

3 THE COURT: Yes.

4 BY MR. RAVENELL:

5 Q Now let me show you, sir, what is Exhibit 10.
6 Now Exhibit 10, if you look at the middle of the section
7 of the page, you see Security Alert Bulletin in big
8 letters there? Do you see that?

9 A Yes, I do.

10 Q And you see that it appears to be an email that
11 says sent from company.communications. Do you see that?

12 A Yes.

13 Q Okay. And company.communication is the company
14 sending emails?

15 MR. MITCHELL: Objection.

16 THE COURT: The question is do you know whether
17 that email address is from the location from which the
18 company sends out emails to employees?

19 THE WITNESS: No. I can't say for certain that
20 I know of that email address.

21 BY MR. RAVENELL:

22 Q But you do receive -- you told us on through
23 your email, your company-related email,
24 Tommy.Arrowood@YRCW.com the company emails. Correct?

25 A Yes.

1 Q And you've told us that you're required to spend
2 a certain period of time each day reviewing and responding
3 to emails. Correct?

4 A Correct.

5 Q And in fact you do review and respond to emails.
6 Correct?

7 A Correct.

8 Q You do what you're required to do by your job
9 requirements?

10 A Correct.

11 Q All right. Now this document indicates --
12 Exhibit 10, it says it's addressed to all YRC worldwide
13 employees. Do you see that?

14 A Yes.

15 Q And you would be a YRC worldwide employee, sir?

16 A Yes.

17 Q Okay. And while you've told us that you in fact
18 have reviewed -- you do review each and every day your
19 emails and you respond telling the Court that you have
20 never seen a document called Security Alert Bulletin?

21 A I don't recall seeing this, no.

22 Q Well, have you seen any documents entitled
23 Security Alert Bulletin whether you saw this particular
24 one or not?

25 A No. I don't recall seeing any.

1 Q A moment ago, I showed you a document, Exhibit
2 19, and you said in response to a different question I
3 asked, you said I have never seen the reference to C-TPAT
4 until I saw this document. Remember saying that a little
5 while ago?

6 MR. MITCHELL: Objection.

7 THE COURT: The question is do you remember
8 saying that or not?

9 THE WITNESS: Today is the first day that I've
10 seen this.

11 THE COURT: Referring to what, sir?

12 THE WITNESS: This document that I have in my
13 hand.

14 THE COURT: What number is on it?

15 THE WITNESS: Exhibit 19.

16 THE COURT: All right.

17 BY MR. RAVENELL:

18 Q Well, what you said earlier though when I gave
19 you that document was that the first time you ever heard
20 of C-TPAT is today. Isn't that what you said earlier?

21 A Say again, sir.

22 Q Yes. Earlier when given that document, in
23 response to a different question, you actually added I
24 have never seen this -- never seen C-TPAT until today.

25 A Yeah. This document right here. C-TPAT.

1 Q Right. You had never seen those letters,
2 C-TPAT, before today?

3 A Yes. I've seen them before today.

4 Q Okay. So you have seen the letters, C-TPAT,
5 before today?

6 A Correct.

7 Q Where have you seen the letters, C-TPAT, before
8 today?

9 A That's in the -- I saw it first in the business
10 code of conduct.

11 Q Okay. And that is YRC's Business Code of
12 Conduct?

13 A Correct.

14 Q And how did you receive the YRC's Business Code
15 of Conduct?

16 A By email.

17 Q Okay. And you in fact received that YRC's
18 Business Code of Conduct every year by email?

19 A I don't -- I believe so. But I can't say as to
20 that it's annually distributed. They also have it on
21 their website.

22 Q And you've in fact seen that code of business
23 conduct in addition to seeing it in your email, you have
24 seen it on the website?

25 A Correct.

1 Q And you in fact have asked for and gotten a hard
2 copy of the business code of conduct?

3 A No. I haven't asked for and gotten a copy of
4 the business code of conduct.

5 Q Is there a hard copy posted in your work area?

6 A No. Not to my knowledge.

7 Q Okay.

8 A It's available for view online.

9 Q Now one of the things that -- YRC's Code of
10 Business Conduct is a document that you are required to
11 follow in your day-to-day responsibilities. Correct?

12 A Correct.

13 Q And YRC's Code of Conduct is something that you
14 are to respond to whenever you're in doubt about your
15 obligations. Correct?

16 A Correct.

17 Q And YRC's Code of Conduct tells you that you're
18 always to report violations. Correct?

19 A I believe so. Yes.

20 Q Now let me ask you to look at Exhibit 8.

21 A Do I have it?

22 MR. RAVENELL: Court's indulgence.

23 (Pause.)

24 BY MR. RAVENELL:

25 Q Now you've told the Court today that you are

1 familiar with C-TPAT and that you have seen it in the code
2 of business conduct --

3 A That I saw a paragraph on it in the business
4 code of conduct. Yes.

5 Q Right. Now when I asked you whether you knew
6 about the Customs Trade and Partnership Terrorism Act
7 called C-TPAT when I asked you that when you testified
8 here on January the 13th of 2014, your answer was no. You
9 didn't know what C-TPAT was. Correct?

10 A Correct.

11 Q All right. That was not true? You had seen --

12 A I still don't know what it's all about.

13 Q Well, you knew what -- you had seen C-TPAT
14 before. Correct?

15 A I seen it in the code of conduct. Yes, sir.

16 Q Right. So when you said before that you didn't
17 know what it was, you are telling the Court you had seen
18 the letters, but you didn't know what it stood for?

19 A I don't know what it -- I don't know what it all
20 means.

21 Q I didn't ask you what it all meant. I asked you
22 whether you were familiar with C-TPAT. Your answer was
23 you didn't know, never seen it before. Was that truthful?

24 A Yes. I'm --

25 Q You had seen it before. Correct?

1 A Pardon me?

2 Q You had seen the reference to C-TPAT prior to
3 January 13, 2014 in the code of business conduct, hadn't
4 you, sir?

5 A I believe so. Yes. It's right here.

6 Q You didn't just believe so. You know so, don't
7 you?

8 A Yes, sir.

9 Q Now let's turn to -- you said you have it in
10 front of you -- page 21 of Exhibit 8. Do you have that
11 page?

12 A Yes, sir.

13 Q There is the section -- I know you have been
14 pointing to it -- it begins "our operating companies
15 voluntarily participate in Customs-Trade Partnership
16 Against Terrorism agreement." Do you see that?

17 A Yes, sir.

18 Q And then it tells you what the acronym is.
19 C-TPAT. Correct?

20 A Yes.

21 Q And so prior to January 13, 2014, not only had
22 you seen the letters, C-TPAT, you had been told exactly
23 what it stands for. Correct?

24 A Yes, sir. It says it right here. Yes.

25 Q All right. You knew what it stood for as of

1 January 13, 2014. Correct?

2 A It's the -- yes. It's right here.

3 Q Yes. Now one of the things that YRC says in its
4 code of business conduct is that we are required to
5 cooperate fully with customs and I'm reading from the
6 section on page 21. "We are required to cooperate fully
7 with Customs and other government agencies participating
8 in C-TPAT to deter smugglers from using our employees or
9 equipment to transport contraband."

10 What YRC represents that they are required
11 to do, they also teach you and other employees to be on
12 the lookout for contraband, don't they?

13 A They don't teach me. They didn't teach me to be
14 on the lookout for contraband.

15 Q It said that "this cooperation -- I read
16 further -- includes, but is not limited to ensuring all
17 bill of lading and other cargo documentation are accurate
18 and complete and reporting suspicious shipper, shipping
19 practices and anomalies in shipping documentation."

20 You're taught consistent with this
21 paragraph by YRC to be on the lookout for suspicious
22 shippers, aren't you, sir?

23 A I'm taught to look out for suspicious packages
24 as it pertains to commodity classification. That's what I
25 do.

1 Q But you are telling the Court that while YRC
2 represents that employees look out for suspicious packages
3 that relates to contraband, you've never received any such
4 training?

5 MR. MITCHELL: Objection.

6 THE WITNESS: No, I have not.

7 THE COURT: Well, overruled. He's answered the
8 question now I think several times. So we can move on.

9 MR. RAVENELL: All right.

10 BY MR RAVENELL:

11 Q Now, sir, I want to show you a document, Exhibit
12 7.

13 MR. RAVENELL: I would move Exhibit 7, Your
14 Honor.

15 MR. MITCHELL: If the government could just have
16 a moment to look at this?

17 THE COURT: Of course. Thank you.

18 (Pause.)

19 MR. MITCHELL: Your Honor, the government would
20 just ask defense counsel to try to identify where these
21 documents came from. The government is not aware of YRC
22 actually Bates numbering any productions with YRC numbers
23 down at the bottom right hand corner. With that caveat,
24 so long as it came from YRC's production, the government
25 would have no objection.

1 MR. RAVENELL: These are from the YRC
2 production.

3 THE COURT: All right.

4 MR. MITCHELL: No objection, Your Honor.

5 THE COURT: So they're in.

6 (Defense Exhibit Number 7 was admitted into
7 evidence.)

8 BY MR. RAVENELL:

9 Q Sir, would you take a moment to look at Exhibit
10 7? And then I'll have some questions for you.

11 A I've looked at it, sir.

12 Q Now these are emails between you and a Kelly
13 Watkins regarding your requirement to review and respond
14 that you have reviewed YRC's Business -- Code of Business
15 Conduct each year. Correct?

16 A Correct.

17 Q And if we start with the first document in that
18 package, it is your response indicating that you have in
19 fact reviewed the code of business conduct. Correct?

20 A Correct.

21 Q And if you turn to the second page, one of the
22 things that you are told is remember to always keep a copy
23 of the code readily available. Correct?

24 A Correct.

25 Q Follow the code in your day-to-day

1 responsibilities?

2 A Correct.

3 Q Reference to code when in doubt about your
4 obligations?

5 A Correct.

6 Q And always report violations. Correct?

7 A Correct.

8 Q If you'd turn to the -- it's not numbered
9 correctly. Turn to one, two, three, four -- the fifth
10 page in, sir. This email chain is dated it looks like
11 January 9th of 2008. There is a response from you to
12 Kathy Clark. Is that correct?

13 A Yes.

14 Q All right. And here it says Kathy, "I read the
15 code of conduct when I got my hiring packet in the mail
16 and I also read the one here posted in the office."

17 Now does that indicate that there was a
18 code of business conduct posted in the office? Sir?

19 A Yes.

20 Q You were indicating that there was a code of
21 business conduct that was posted in the office?

22 A In the office that I was in at the -- yes.
23 Posted in the office.

24 Q Okay. So there was a code of business conduct
25 posted in the office that you were working at in 2008?

1 A Yes, sir.

2 Q And you go on to say could you please send me
3 the link to the one online so that I can read it and
4 satisfy that requirement also. And you in fact then sent
5 a link to this code of business conduct that YRC has. Is
6 that correct?

7 A Yes.

8 Q And you then read it again so that you could
9 satisfy your yearly requirement?

10 A Yes.

11 Q And do you follow the -- as you said, you follow
12 the rules and procedures of the company. Did you keep a
13 copy of the code readily available?

14 A I have a copy readily available on the computer.
15 Yes.

16 Q All right. And you followed the code in your
17 day-to-day responsibilities?

18 A Yes.

19 Q And you referenced the code when you're in doubt
20 about your obligations?

21 A Yes.

22 Q And you always report violations?

23 A Yes.

24 Q So when YRC represented that they give you the
25 code of business conduct and give it to all employees,

1 they did do that?

2 A Yes.

3 Q But what you're telling the Court is that when
4 YRC represented that they gave you these other documents,
5 such as the Security Alert Bulletin and those Security
6 General Plans that went to all employees, you didn't get
7 those?

8 MR. MITCHELL: Objection.

9 THE COURT: Sustained.

10 BY MR. RAVENELL

11 Q Now when we were last here in January, when I
12 questioned you about your intent and the purpose why you
13 opened the package or pallet on April the 17th of 2013,
14 you finally admitted in your prior testimony that your
15 motivation at some point was to, as you said, identify the
16 character of the property and report it to the police.
17 Correct?

18 A If I find to be what it was, yes, that's what I
19 would do.

20 Q Well, in fact what you said was -- the question
21 was asked of you --

22 MR. RAVENELL: Just give us page 164, please.
23 Line 21.

24 BY MR. RAVENELL:

25 Q Line 21 on page 164. Question I made to you:

1 "So before you opened that package up, cut into it, looked
2 into it, your motivation was to see whether this was drugs
3 so you could report it to the police. Your answer: Yes.
4 Question: That was your intent? Answer: That was my
5 intent when I got that far within -- Question: Yes. You
6 answered: The opening."

7 So you have admitted that at some point
8 before you opened this last package, your intent was and
9 motivation was to report it to the police. Correct?

10 MR. MITCHELL: Objection.

11 THE COURT: Overruled. Was that your intention?

12 THE WITNESS: My intention when I started this
13 inspection was to --

14 BY MR. RAVENELL:

15 Q I didn't ask you when you started it, sir.
16 Please listen to my question.

17 A My intent -- yes, sir.

18 Q Please listen to my question. Do not answer a
19 different one. Thank you. What you've told the Court
20 what I just read to you, that was your testimony on
21 January 13, 2014. That was truthful testimony?

22 A Yes.

23 Q Okay. Now do you know Trooper Scott Fidler,
24 sir?

25 A Yes.

1 Q And how long have you known Trooper Fidler?

2 A I don't recall the first time that I met him.

3 Less than a year.

4 Q Less than a year what?

5 A Or less -- I don't recall the first time that I
6 saw him. I just don't.

7 Q Well, did you know him prior to April 17, 2013?

8 A No, I did not.

9 Q All right. Did you meet him on April 17, 2013?

10 A No, I did not.

11 Q So when did you meet him after April 17, 2013?

12 A I don't recall.

13 Q Could it have been within six months?

14 A I'm not certain. I don't recall.

15 Q Now when you testified previously on April
16 the -- January the 13, 2014, you told the Court that when
17 Trooper Fidler first came back to YRC and you met him was
18 in December. Correct?

19 A Was it December? I'm not certain.

20 Q Okay. I asked you when it was that you next
21 saw, when you first met Trooper Fidler and you said --

22 MR. RAVENELL: Give me page 75.

23 BY MR. RAVENELL:

24 Q Starting on line 8, sir. Let's go back. I was
25 asking you about Trooper Fidler coming back and you told

1 us the following: "And we were not all there. So he
2 didn't talk to us. In the preceding week, I believe he
3 did come in. But I wasn't there because I was training
4 another person in Hagerstown."

5 It's your recollection that when Trooper
6 Fidler came back to YRC, you were in Hagerstown training
7 another employee?

8 A I believe so. Yes.

9 Q Okay. You go on to say "So whatever. If he was
10 there, he had a conversation. I don't -- I was, I was not
11 there if I didn't know what it was. Question: Do you
12 know why it was he was coming in to speak to you and the
13 other W & I coordinators? Your answer was no, he didn't
14 say why he was coming back the following week. Now did
15 you speak to him or did you learn that he was planning to
16 come in?" You went on to say, "Oh, I forgot. One of the
17 supervisors, I want to say it was Mark, I was not positive
18 brought him down, brought him down to my office."

19 MR. RAVENELL: Court's indulgence.

20 (Pause.)

21 BY MR. RAVENELL:

22 Q So line 10, I was asking you about the time
23 period. Your answer was "That was -- the exact date would
24 have been -- I don't know what the exact date is. But
25 it's the week, it was the week before December 9th. I

1 believe it was a Wednesday. I think it was December 9th
2 that week."

3 Does that refresh your recollection that
4 that was the time that Trooper Fidler came back was
5 December of 2013?

6 A I guess. I don't remember the exact date.

7 Q Okay. Well, the testimony you gave back on
8 January 13th of 2014, was that truthful testimony?

9 A I believe it to be.

10 Q Okay. So your recollection was that after this
11 April 17th incident, you -- on April 17th, you didn't meet
12 Trooper Fidler and that your first time meeting him was
13 December of 2013?

14 A Yes.

15 Q Okay. What is your understanding of why Trooper
16 Fidler came to YRC in December of 2013?

17 A Could you repeat the question, please?

18 Q Yes. What is your understanding of why Trooper
19 Fidler came to YRC in December of 2013?

20 A I believe -- well, he came to tell us what the
21 shipment was.

22 Q So eight months after the incident, you're
23 saying Trooper Fidler for the first time came back and
24 told you what the shipment was on April 17th?

25 A Yes.

1 Q And that's why he came back?

2 A I believe so.

3 Q He hadn't come back to talk to you a couple of
4 weeks after April 17, 2013?

5 A No.

6 Q It didn't happen?

7 A Not to my knowledge. No.

8 Q Well, you would know whether Trooper Fidler came
9 to talk to you a few weeks after April 17, 2013. Correct?

10 A Correct.

11 Q All right. So when Trooper Fidler came in
12 December, according to you, to tell you about what was in
13 that package on April 17th of 2013, who did he meet with?

14 A He met with the people in my department.

15 Q Who all did he meet with?

16 A It would have been Theresa Eck, Kevin Tompkins,
17 John Croft, Fred Kessler, George Pear. If those were --
18 those are the people that are in my department there.
19 whether or not, you know, they were all there, I am not
20 certain. I believe they were.

21 Q Okay. And what else if anything did Trooper
22 Fidler talk to you about in December of 2013 other than
23 telling you what was in the package that was seized on
24 April the 17th, 2013?

25 A I don't recall.

1 Q You don't recall what he talked to you about?

2 A No.

3 Q How long was the meeting?

4 A I don't know.

5 Q Well, you were there.

6 A I was there.

7 Q So how long was the meeting?

8 A I don't recall.

9 Q How many times have you met with a state trooper
10 or a police prior to this December 2013 meeting with
11 Trooper Fidler?

12 MR. MITCHELL: Objection.

13 THE COURT: Sustained. Scope. You want to tie
14 it with this incident?

15 MR. RAVENELL: Sure.

16 BY MR. RAVENELL:

17 Q Had you met with Trooper Fidler or anyone from
18 the state police regarding this incident other than before
19 this December 2013 meeting?

20 A To my knowledge, no.

21 Q Okay. And had you met with anyone from law
22 enforcement to discuss this incident, April 17, 2013 prior
23 to that December 2013 meeting?

24 A No. Not to my knowledge.

25 Q So this was an unusual event then to have law

1 enforcement gather you and your co-workers together to
2 meet. Correct?

3 MR. MITCHELL: Objection.

4 THE WITNESS: Correct.

5 BY MR. RAVENELL:

6 Q And when Trooper Fidler came in and met with you
7 and told you about this shipment containing marijuana,
8 what did he say?

9 A He said that the shipment contained marijuana as
10 near as I can recollect.

11 Q And then he left?

12 A Yes.

13 Q Did you reach out to Trooper Fidler after he
14 left?

15 A No.

16 Q Did he reach out to you again in December of
17 2013 after he left?

18 A Not that I recall.

19 Q So then when Trooper Fidler was there in
20 December of 2013, you're telling the Court that he did not
21 discuss with you the potential of you becoming a source
22 for the Pennsylvania State Police?

23 A No.

24 Q Did not?

25 A Not that I recall.

1 Q well, if Trooper Fidler said he had that
2 conversation with you, would he be saying something that's
3 not accurate?

4 MR. MITCHELL: Objection.

5 THE COURT: Overruled.

6 THE WITNESS: I can't testify as to what Trooper
7 Fidler said. I'm just saying I don't recall that
8 conversation.

9 BY MR. RAVENELL

10 Q well, how often do people approach you, law
11 enforcement asking you to be a source for them?

12 MR. MITCHELL: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: I don't -- I've never been
15 approached to be asked as a source that I can recall.

16 BY MR. RAVENELL

17 Q Ever in your life?

18 A Not for law enforcement. No.

19 Q Even to this day?

20 A I don't recall.

21 Q well, that would be a memorable event if law
22 enforcement contacted you and asked you to be a source.
23 Do you agree?

24 A Yes.

25 Q Not something you would likely forget?

1 A I don't think I would likely forget that. No.

2 Q So if you don't recall it, it didn't happen?

3 A I don't recall.

4 Q So you are a paid source for the Pennsylvania
5 State Police?

6 A No.

7 Q You're not?

8 A No.

9 Q Have you ever been paid money by the
10 Pennsylvania State Police?

11 A Yes.

12 Q Have you been paid money by the Pennsylvania
13 State Police as a source of information?

14 A No.

15 Q Are you a source of information for the
16 Pennsylvania State Police?

17 A No.

18 Q So if someone says you are, they would be
19 mistaken or lying?

20 A I don't recall being approached to be a source
21 for the Pennsylvania State Police.

22 Q You don't recall it?

23 A No.

24 Q Well, that's something that you would remember,
25 don't you think?

1 A Correct.

2 Q If that happened, you would remember it?

3 A I would think so.

4 Q Now maybe it's just me, but I think on
5 television, they generally sign some kind of agreement to
6 be a source. Did you ever sign anything like an agreement
7 to be a source for the Pennsylvania State Police?

8 A No. I signed a receipt for the reward that
9 Trooper Fidler gave me.

10 Q And this was what, a piece of paper that says
11 receipt?

12 A I'm not exactly sure what the receipt said.

13 Q But it was clearly just a receipt for money that
14 you got?

15 A Correct.

16 Q All right. And that thing I just mentioned like
17 something that happened on T.V. to sign those agreements,
18 I don't know whether it's true or not, you didn't sign
19 anything like that?

20 A Not to my knowledge. No.

21 Q Well --

22 A I just signed a receipt.

23 Q You would have knowledge whether you signed an
24 agreement to be a source for the police, wouldn't you?

25 A I would think so.

1 Q Right. You're a smart man.

2 MR. MITCHELL: Objection.

3 BY MR. RAVENELL:

4 Q You agree?

5 MR. MITCHELL: Objection.

6 THE COURT: Overruled.

7 BY MR. RAVENELL:

8 Q You're a smart man. Right? Do you agree?

9 A I believe myself to be of average intelligence.

10 Q But even when considered to be average
11 intelligence, that's something that you would not likely
12 forget that you signed an agreement that says you are a
13 source for the Pennsylvania State Police. Correct?

14 A The document that I signed with Mr. Fidler to my
15 understanding was a receipt for the reward that he gave
16 me.

17 Q So what you got was a reward from Trooper
18 Fidler?

19 A Yes.

20 Q And how much was the reward?

21 A It was a thousand dollars.

22 Q And were you told that there -- that you have
23 the potential of earning more money or was this just to
24 pay for this one incident?

25 A I was told that that thousand dollars was for

1 this one incident.

2 Q Okay. There was no discussion about how you
3 could make more money?

4 A We didn't discuss that to my knowledge. No.

5 Q And you have no interest in being a source for
6 the Pennsylvania State Police, do you?

7 A I have no interest in being a source for the
8 police. No.

9 Q Right. So therefore, you never did it and
10 wouldn't do it. Correct?

11 A Could you repeat the question?

12 Q Yes. So therefore, you never became a source
13 and you would never become a source because you have no
14 interest in doing that?

15 A I have no interest in becoming a source. No.

16 Q Now you were obviously aware that you were still
17 a witness in this case and potential to be a witness again
18 after you testified in January of 2014. Correct?

19 A Yes.

20 Q And you were aware that there potentially could
21 be a trial and the prosecutors told you there might be a
22 trial. Correct?

23 A Correct.

24 Q And you were told that when you were in court
25 that you should not be discussing your testimony with

1 other witnesses and other people. Correct?

2 A I don't recall if I was specifically told that.

3 Q Okay. Now when was the last time you have seen
4 Trooper Fidler? I know you told us you saw him in
5 December. When did you next see him?

6 A The next time I saw Trooper Fidler was -- it
7 would have -- I believe it was the end of January.

8 Q End of January?

9 A (Indicating affirmatively.)

10 Q Is that when he gave you the reward?

11 A Yes, sir.

12 Q And have you seen him any time after January --
13 January of 2014 you're referring to. Correct?

14 A Correct.

15 Q Have you seen him at any time after January of
16 2014?

17 A I've seen him on the dock after January 14th on
18 our -- at our -- excuse me. I've seen him at our facility
19 after January 14th, did you say?

20 Q Yes.

21 A Yes.

22 Q All right. But you have no real interaction.
23 You just saw him on the docks?

24 A Other than common courtesies, no.

25 Q Right. So other than hello, good morning, hi,

1 that's the only contact you would have had with him after
2 he gave you the reward?

3 A Yes, sir.

4 MR. RAVENELL: Court's indulgence.

5 THE COURT: All right.

6 (Pause.)

7 MR. RAVENELL: Nothing further, Your Honor.

8 THE COURT: All right. Cross-examination, sir.

9 MR. MITCHELL: Yes, Your Honor. The government
10 might also use the transcript and hook up the computer.
11 So if we could maybe have just a couple of minutes?

12 THE COURT: Sure.

13 MR. MITCHELL: Thank you, Your Honor.

14 THE COURT: Let's just take a -- do you think
15 it's going to take more than three or four minutes?

16 MR. MITCHELL: No, Your Honor.

17 THE COURT: All right. Let's just have a break
18 in place. Everybody stand up if they want to stand up and
19 stretch. Get their oxygen flowing again.

20 MR. TUMINELLI: Your Honor, I'm just going to
21 run out.

22 THE COURT: That would be fine, sir.

23 (Pause.)

24 THE COURT: All right. Are we ready to proceed
25 now, folks?

1 MR. RAVENELL: Yes, judge.

2 THE COURT: All right. Very good.

3 Cross-examination.

4 CROSS-EXAMINATION

5 BY MR. MITCHELL:

6 Q Good afternoon, sir.

7 A Good afternoon, sir.

8 Q I'd like to draw your attention back to Defense
9 Exhibit Number 6 marked 6-42914. It's the Module 8-B as
10 in boy. Do you have that in front of you, sir?

11 A Exhibit 6, Module 8-B. Is that --

12 Q Yes.

13 A Is that the one? Yes.

14 Q Before I get back to that particular document,
15 back in January, you testified about what your day-to-day
16 routine would be as a W & I coordinator at YRC. Do you
17 remember testifying to that?

18 A Yes.

19 Q One of the things you said you conducted was a
20 three-second evaluation. Do you remember that?

21 A Yes.

22 Q And you testified that you conducted a
23 three-second evaluation of approximately 300 shipments a
24 day. Do you remember that?

25 A Correct.

1 Q Does that sound about right still?

2 A That sounds about right.

3 Q You also testified that you changed
4 classifications, freight, commodity classifications for 15
5 to 25 times a day?

6 A Approximately. Yes.

7 Q Okay. And that's still correct?

8 A Correct.

9 Q And you said you opened approximately a hundred
10 different shipments a day.

11 A Correct.

12 Q Does that sound about right?

13 A Yes.

14 Q Okay. And so some of those shipments, you had
15 changed the classifications, but not for all. Is that
16 right?

17 A Some would change. Some wouldn't change.
18 Correct.

19 Q Okay. I believe you also described -- well, let
20 me ask you this. Can you just describe the layout of the
21 dock at the Carlisle, Pennsylvania facility that you work
22 at?

23 A Scope as in size and --

24 Q Yes, sir.

25 A The facility at Carlisle is actually two docks.

1 we have approximately 400 doors. We have a inbound side,
2 an outbound side. We have a city operation. The city
3 operation is generally on the shorter of the two docks.
4 But there's freight. You know, there's always freight
5 moving on both docks. We're at 24-7 --

6 MR. RAVENELL: Your Honor, if I may? You're
7 aware that Mr. Tuminelli is not back yet?

8 THE COURT: Oh, I'm sorry. I didn't even --

9 MR. RAVENELL: I just realized it myself.

10 THE COURT: I didn't even recognize it. He's
11 been so well-behaved. Let's just hold off here.

12 (Pause.)

13 THE COURT: Here he comes. Mr. Tuminelli, I
14 apologize. We didn't realize that you weren't back. We
15 started, but we haven't gotten too far into things.

16 MR. TUMINELLI: I'm sure there was no damage,
17 Your Honor.

18 MR. RAVENELL: We got you. We got you. We will
19 fill you in.

20 THE COURT: All right. Mr. Mitchell, whenever
21 you're ready, sir. My apology there.

22 MR. TUMINELLI: No. That's fine. Thank you.

23 BY MR. MITCHELL:

24 Q Mr. Arrowood, I believe you were just describing
25 the layout of the facility at Carlisle, Pennsylvania?

1 A The layout -- the two docks, 400 doors, I
2 believe I have covered that. And we have freight
3 constantly moving on the dock 24 hours a day, seven days a
4 week.

5 Q And as far -- it sounds like a lot of doors. As
6 far as the number of yards are concerned, can you give us
7 an idea of how big this facility is?

8 A The larger dock is approximately I would say 400
9 yards long and the smaller dock is about half of that
10 size.

11 THE COURT: Excuse me. When you say doors, are
12 you talking about the doors that go up and down that a the
13 tractor trailer backs into?

14 THE WITNESS: Yes, sir.

15 THE COURT: In other words, it's a big long line
16 where 18 wheelers come in and they back up, they can be
17 loaded and unloaded?

18 THE WITNESS: Yes, sir.

19 THE COURT: All right. I just want to make sure
20 I have the right doors in my mind. All right. Continue,
21 please.

22 BY MR. MITCHELL:

23 Q And one of your duties and responsibilities as a
24 weights -- a W & I coordinator is to "walk the dock." Is
25 that right?

1 A Correct.

2 Q Okay. And what does that mean specifically?

3 A Pardon me?

4 Q What does that mean?

5 A That means I walk the dock looking for, looking
6 for the freight. You know, it's something -- some stuff,
7 you know, will sit in the middle. Some stuff we'll see
8 that see in a stack trailer. I mean there's a strip side
9 where the freight is stripped off and then there's the
10 stack side where -- I'm sorry -- where the freight gets
11 stacked into until that particular trailer is full. Then
12 they'll cut it in and we'll send it on. I'm checking the
13 freight that's generally sitting in the middle or that's
14 in the stack trailers. Every now and again, I may see
15 something coming off of the strip side and may stop
16 somebody to look at it. But predominantly, I'm walking up
17 and down the middle of the dock because that's where the
18 bulk of the freight would be sitting before it goes to the
19 stack side.

20 Q I believe you also testified earlier that there
21 is, in somewhere in this facility, there's an office with
22 computers. Is that right?

23 A Yes.

24 Q And you have access to that office with
25 computers?

1 A Yes, I do.

2 Q And where is that located in the facility?

3 A That's located approximately right in the middle
4 of the large dock.

5 Q Okay. But you said you walk up and down the
6 dock. Is that right?

7 A Correct.

8 Q And you don't carry with you when you're walking
9 the dock a computer of any sort. Is that right?

10 A I do not carry a computer with me. No.

11 Q And there was some testimony earlier today about
12 the different computer systems that YRC maintains and that
13 you have access to. Is that right?

14 A Yes.

15 Q Is it fair to say that when you access those
16 computer systems, it's from the office within the Carlisle
17 facility. Is that right?

18 A I can access the -- I can access the computers
19 from the office if one of the foreman stations isn't taken
20 up because there's -- on the -- I'm trying to stay away
21 from trade terminology. But on the inbound side which is
22 the east side of the dock, there's a stacking foreman
23 station and there's a stripping foreman station and they
24 have a computer. If they're not on it, then I have a
25 chance to maybe look something up. If they're on it, then

1 I just have to write what I find and move on. And the
2 same thing with the west side of the dock. The further
3 in, they have, they have two stacking supervisor stations
4 and a stripping station also where the stacking foreman
5 and the stripping foreman work. They have a computer
6 there. So there is opportunity sometimes when, you know,
7 if they walk away or if I see it vacant, I might be able
8 to get on it real quick to look up a tariff or something.

9 Q Okay. But it's fair to say that you don't have
10 access to a computer at all times when you're conducting
11 your inspections, you know, within feet of where you are.
12 Is that right?

13 A No. No, I do not.

14 Q I direct your attention to Defense Exhibit
15 Number 6 or I'd like to have you look at that again. This
16 is the Training Manual Module 10-B. Is that right?

17 A Exhibit 6, I see it as Training Module 8-B.

18 Q Thank you for the correction. Yes. And you
19 were asked a number of questions about pages 10 and 11 of
20 this particular exhibit. Do you remember that?

21 A Yes.

22 Q Specifically, about the section entitled
23 Inspection of Freight at the bottom of page 10?

24 A Yes.

25 Q And going onto page 11, there is -- the last

1 bullet there has sub bullets 1 through 5 --

2 A Yes.

3 Q -- about taking pictures.

4 A Yes.

5 Q And I believe you testified earlier that you
6 perform these steps after opening a shipment. Is that
7 correct?

8 A Correct.

9 Q Okay. And you do that as a matter of ordinary
10 course of business. Is that correct?

11 A Yes. If I'm going, if I'm going to change the
12 classification of a shipment, I have to take these series
13 of photos.

14 Q Okay. And your understanding of this particular
15 module is that these are steps that are conducted after
16 you open up a shipment. Is that correct?

17 A Correct.

18 Q And so I think you testified earlier that you
19 open approximately a hundred shipments a day on average?

20 A On average, I run across a lot of shipments. A
21 hundred is safe.

22 Q Okay. So roughly a hundred shipments a day.
23 And you change classifications of 15 to 25 times a day.

24 A Roughly. Yes.

25 Q Okay. Using those numbers, for the 15 to 25

1 times a day, would you follow the procedures that are set
2 forth after opening those shipments? Let me re-word that.

3 After opening the shipments, the 15 or 25 a
4 day for which you change the classifications, would you
5 follow the procedures set forth in Module 8-B in Defense
6 Exhibit Number 6?

7 A Could you ask that again, please?

8 Q Sure. Let me ask it a different way. I believe
9 you testified earlier that you follow the procedures set
10 forth in Module 8-B with regard to the inspection of
11 freight and the taking of pictures. Is that correct?

12 A Correct.

13 Q And you only follow those steps after opening a
14 shipment. Is that correct?

15 A I follow -- are we talking about the pictures
16 series?

17 Q On pages 10 and 11 of Defense Exhibit Number 6,
18 do you see the section that says Inspection of Freight?

19 A Yes, I do.

20 Q And do you see the bullets underneath there?

21 A Yes.

22 Q Do you follow these procedures as part of the
23 ordinary course of business?

24 A Yes.

25 Q When do you follow these procedures?

1 A I follow the procedures -- when I do the
2 inspection -- if I don't have all of the freight, I can't
3 inspect it. I can't make a class change to -- you know,
4 that's -- you know, all the pieces of the shipment before
5 starting inspection. If you don't have all the pieces of
6 the shipment, you can't really determine what the whole
7 shipment is. So you can't do an inspection if that
8 happens. Or, you know, we may have a partial of the
9 shipment.

10 Measure all pieces, length, width and height to
11 the quarter inch. I have a measuring tape that I carry
12 with me as a tool on the dock. So we measure the freight.

13 Verify and weigh shipments whenever possible,
14 but be sure to verify weight on density based corrections.
15 I do do that and verify the weight whenever possible.

16 The next step was to check for packing list on
17 shipment to see how shipper is describing the freight.
18 Packing lists aren't always available. Sometimes they're
19 on the freight. Sometimes they're not. If it's there, we
20 will look at the packing list.

21 Take a minimum of three pictures. More is
22 helpful. We take pictures if we change the
23 classification. If we change the classification, we take
24 the pictures.

25 Take pictures in this order for ease in

1 numbering and downloading your pictures. We start with
2 the pro number because that's the first series and that
3 number is a unique identifier to that shipment. So that's
4 the number one picture that identifies all the photos for
5 that series. The shipping label. The address label.
6 Packing list if available. Product shipped. And I know
7 it says open cartons to display contents, but that's the
8 contents of the carton that's already opened. You are
9 taking a picture of what it is that you are seeing.

10 And then it says pictures of how the product is
11 tendered for shipment. Include all pieces. That's what
12 we call the cube shot which is you try to take, you know,
13 one picture or a series of pictures to show how it was
14 packaged and how large it was.

15 Q So when you testified back in January about the
16 three-second evaluation, do you remember that?

17 A Yes.

18 Q These steps set forth in the bullets on pages 10
19 and 11 that you just read out to us, those are not the
20 three-second evaluation. Is that correct?

21 A No. This is not the three-second evaluation.
22 This has to do when you're actually do the inspection.
23 The three-second evaluation will help you determine
24 whether or not you even want to go further or even inspect
25 the shipment.

1 Q Okay. And when you say inspect the shipment, do
2 you mean open up the shipment or --

3 A When I say inspect the shipment, I mean open up
4 the shipment, verify the character of the property that is
5 being shipped.

6 Q Okay. But again, the steps that you just read
7 out on pages 10 and 11 here, these are steps that you take
8 as part of the ordinary course after you've opened up a
9 shipment and decided that the classification needs to be
10 changed. Is that correct?

11 A Correct.

12 Q And so you said earlier that you change
13 classifications 15 to 25 times a day approximately.

14 A Approximately.

15 Q Okay. So for those changes in classifications,
16 these are the steps you would follow. Is that correct?

17 A Correct.

18 Q Okay. You said that you opened a hundred
19 shipments on average a day?

20 A Correct.

21 Q Okay. For those 75 shipments that you open for
22 which you do not change the classifications, is it fair to
23 say that you do not follow the steps on pages 10 and 11 of
24 Exhibit Number 6?

25 A The shipments that I don't change the

1 classification to, I don't -- no. These are the steps
2 leading up to actual computer entry to change the class.
3 If you are not going to change the class, there's nothing
4 to document. You just secure the container or the
5 packages as best as it was originally tendered.

6 Q And when you mentioned computer entry, that's
7 also part of the process of changing the classification
8 and documenting that change?

9 A Yeah. The computer entry is the documentation
10 in our system. We change it. And when we change it, we
11 describe what we found. You know, we are changing the
12 class, changing the weight if need be. Documenting, we
13 have a section that we have to list the skid measurements.
14 You know, if it's a density-based item, you have to list
15 the measurements. You have to list the cube. You have to
16 say what the shipment is. And part of the documentation
17 at the end of the day is downloading your photographs into
18 a program that we call On Base.

19 Q And to do all of these things, you have to go
20 from the dock where the particular shipment is that you
21 inspected either to the office where the computers are or
22 to an open computer somewhere else on the dock in order to
23 input these changes. Is that right?

24 A I don't input these changes on the dock. while
25 I'm working, I document -- anything that I'm going to

1 change the classification on, I document it on a sheet
2 that we carry with us that we can list the information,
3 the skids, the weights, the measurements.

4 And what I do is at the end of the day,
5 typically the bulk of our crew for the day shift is done
6 at 3:00. So most of them are off the docks. So that's a
7 good lull time for me to come off the dock. And I spend
8 the last two hours of my day doing the actual reports that
9 I have my notes written for.

10 I actually do the computer reports. I download
11 my photographs. I review, you know, protests or emails.
12 And I review, you know, anything that somebody else may
13 have left for me from the previous day.

14 But generally, at the end of the day between 3
15 and 5 or 3 until I'm done with my paperwork is when I do
16 the office part or the paperwork part from the job. The
17 rest of the time I generally am walking the dock.

18 Q Do you remember testifying in January about the
19 shipment that you found on April 17, 2013?

20 A Yes.

21 Q And the reasons for which you opened up that
22 shipment?

23 A The reasons was because the cube that I was
24 looking at versus the weight versus the class wasn't
25 making sense to me as far as the density of the shipment.

1 Q Okay.

2 A That's why I opened it up.

3 Q Okay. I'm going to read just one portion of
4 your testimony. It's at page 146 of the transcript. It's
5 at lines 20 through 23. You testified, "As I'm looking at
6 the paperwork, all I noticed while I'm looking at the
7 paperwork is that the volume of the shipment doesn't match
8 the class and the weight." Do you remember testifying
9 about that, sir?

10 A Yes.

11 Q And is that inconsistent with what you just
12 said?

13 A When I say the volume of the shipment doesn't
14 match the class, that's what I mean by that three-second
15 evaluation. We look at the cube of the shipment and the
16 weight. And with the density, you know, what we believe
17 the density that we're looking at, if it doesn't match --
18 you know, what the class correlation to that density
19 doesn't match the class that's on the waybill, then, you
20 know, we will proceed to open a container and see what the
21 commodity is.

22 Q And I believe you also testified immediately
23 after that, it's on page 147, and I'll just read this as
24 well to you. It's lines 5 through 9. You said, "I
25 believe that I saw the word "wheel" on the box. All

1 right. I can't be a hundred percent certain. But on one
2 of the boxes -- but I can't be a hundred percent certain
3 on that. But I opened the carton, you know, based on my
4 three-second evaluation."

5 Do you remember testifying that at the time
6 you believed, but you weren't a hundred percent certain
7 that one of the boxes was labeled wheels?

8 A That I can or that I can't? Could you repeat
9 your question, please?

10 Q Sure. Do you remember testifying back in
11 January that you believed, but you weren't 100% certain
12 that one of the boxes was labeled wheels?

13 A Yes.

14 Q And so sitting here today, is it your
15 recollection that there were two reasons why you opened up
16 the shipment on April 17, 2013? The first being the
17 classification issue and the second being -- and you're
18 not a hundred percent certain as to the second one -- but
19 the second one being that one of the boxes was labeled
20 wheels, not rims?

21 A Like I said earlier, I really can't -- I'm not
22 certain whether or not I saw wheels on the box. I thought
23 that I might have. Either one, either one of those
24 instances would have triggered an inspection. I mean the
25 box may have said wheel on it. I can't, I can't say a

1 hundred percent that it did.

2 Q When you inspected the documentation that
3 traveled with the shipment at issue on April 17, 2013, did
4 you look at the dock delivery of origin?

5 A I looked at the origin. I would have looked at
6 the shipper, the consignee, the freight description, the
7 weight and the class. I would have seen all that
8 information.

9 Q You testified earlier that this particular
10 shipment -- you believed that this particular shipment
11 originated in California. Is that right?

12 A I believe so.

13 Q Was one of the reasons why you opened this
14 shipment because it originated in California?

15 A No.

16 Q When you reviewed the documentation on
17 April 17th, did you have any -- did you look into the
18 accuracy of the addresses on the documentation?

19 A No.

20 Q So did you believe that any of the addresses
21 were bogus?

22 A No.

23 Q Do you recall looking at any of the phone
24 numbers on the documentation?

25 A No.

1 Q Do you know whether you would have looked at the
2 phone numbers on any of the documentation as part of your
3 ordinary course?

4 A Phone numbers isn't anything that I look for.

5 Q And previously in January, you testified that
6 you had never heard of Auto Tech prior to coming across
7 this particular shipment. Is that right?

8 A No, I have not.

9 Q Okay. And so the fact that this particular
10 shipment said Auto Tech on the paperwork, was not one of
11 the reasons for which you opened up the pallet. Is that
12 correct?

13 A No, it was not.

14 Q Did you know whether Auto Tech was a first time
15 shipper?

16 A Excuse me?

17 Q At the time on April 17, 2013 that you decided
18 to open up the package, did you know whether Auto Tech was
19 a first-time shipper?

20 A No.

21 Q Did you know whether Auto Tech was a
22 non-frequent shipper?

23 A No.

24 Q Did you know how the shipper paid for this
25 particular shipment to be shipped?

1 A No.

2 Q Do you know whether the shipper requested a
3 discount for this particular shipment?

4 A No.

5 Q And do you know whether anyone made any phone
6 calls inquiring as to the status of this particular
7 shipment?

8 A No.

9 Q I believe you testified earlier that you were
10 unaware that this particular shipment had been --
11 expedited processing had been requested by the shipper.
12 Is that right?

13 A No. I wasn't aware that it's expedited
14 processing.

15 Q And that's because that's not one of the things
16 that you look at when you conduct inspections?

17 A No.

18 Q In January of this year, you also testified as
19 to what you found when you opened up the shipment. Do you
20 remember that?

21 A Yes.

22 Q And you described the multiple layers that you
23 had to get through?

24 A Yes.

25 Q And you said the final layer was a bale wrapped

1 in green plastic. Do you remember that?

2 A Yes.

3 Q And you cut into that bale. Is that right?

4 A Yes.

5 Q And you found a green leafy substance?

6 A Yes.

7 Q And I believe you testified that it wasn't until
8 you cut into the bale that you had any suspicion that it
9 was illegal narcotics?

10 MR. RAVENELL: Objection. It misstates the
11 facts. We just had the transcript on this up earlier and
12 he didn't say that.

13 THE COURT: Yes. I'm going to sustain the
14 objection. I don't have any problem with you asking
15 around this, but I don't know that that's what his
16 testimony was.

17 BY MR. MITCHELL:

18 Q Prior to cutting open the bale, did you have any
19 suspicion that it contained illegal narcotics?

20 A At that point through the inspection, I thought
21 that it might.

22 Q So when you had the bale in your hands, it was
23 at that point that you believed that it might contain
24 illegal narcotics?

25 A I thought that it might.

1 Q Prior to having the bale in your hands, there
2 were multiple layers before that. Is that right?

3 A I didn't think that it would be, be that up
4 until the point where I opened up the plastic container
5 that was inside the other cardboard box.

6 Q So when you opened up the plastic container,
7 what did you see?

8 A I saw a green plastic wrapped package.

9 Q Okay. And it wasn't until you saw the green
10 plastic wrapped package that you suspected that this might
11 contain illegal narcotics. Is that correct?

12 A Correct.

13 Q And the green plastic wrapped package that
14 you're describing, that was essentially the final layer.
15 Is that correct?

16 A The green plastic wrap around the package,
17 that's what we call packaging. It was the final layer
18 in -- that's just what we do. We remove all the packaging
19 until the commodity is identified.

20 THE COURT: Just a question so I can understand.
21 Was the plastic wrapping itself green or was it clear
22 through which you saw something below that was green?

23 THE WITNESS: It was -- I don't believe that it
24 was clear that I saw something below. It was just heavily
25 wrapped in what appeared to me to be, you know, like a

1 Saran wrap, only green in color.

2 THE COURT: So the wrapping material itself was
3 what was green in color. Correct?

4 THE WITNESS: The wrapping was green in color.
5 Yes.

6 THE COURT: All right. Thank you.

7 BY MR. MITCHELL:

8 Q And do you have a recollection of cutting into
9 the green wrapping?

10 A Yes.

11 Q And can you estimate approximately how thick it
12 was?

13 A I -- boy, less than a quarter inch. I really
14 couldn't say. I really couldn't say. You are talking
15 about wrapped around the package, the bale?

16 Q It's fair to say that there were multiple
17 layers.

18 A What I cut through, I can't -- I don't really
19 know how thick it was. It wasn't thick.

20 Q Okay. But it consisted of multiple layers of
21 plastic wrapping which you described as Saran wrap I
22 believe. Is that right?

23 A That's what it appeared to be.

24 Q And again, it was multiple layers?

25 A Correct.

1 MR. MITCHELL: Court's indulgence.

2 THE COURT: All right.

3 (Pause.)

4 BY MR. MITCHELL

5 Q Sir, you testified earlier that you received a
6 thousand dollars from the Pennsylvania State Police at the
7 end of January of 2014. Is that correct?

8 A Yes, sir.

9 Q And you testified that you received that money
10 in connection with the discovery of the shipment at issue
11 on April 17, 2013. Is that right?

12 A That's what I was told. Yes.

13 Q And you indicated that you saw some documents
14 associated with this payment that you received.

15 MR. RAVENELL: Objection. No testimony about
16 seeing documents.

17 THE COURT: So the objection is misstates the
18 testimony. Is that your objection?

19 MR. RAVENELL: Yes.

20 THE COURT: All right. Sustained.

21 BY MR. MITCHELL

22 Q Were there any documents that you obtained in
23 connection with the thousand-dollar reward --

24 MR. RAVENELL: Objection. The witness testified
25 he saw a receipt that he signed.

1 THE COURT: All right. No speaking objection,
2 please. If I need the basis, I'll let you know.
3 Sustained. One more time.

4 BY MR. MITCHELL:

5 Q Did you obtain a document in connection with the
6 thousand-dollar reward that you received from the
7 Pennsylvania State Police?

8 A I signed a document for that thousand dollars.

9 Q Well, do you remember what that document said?

10 A I don't recall the content of the document.

11 Q Okay. Was it a single-page document or a
12 multiple-page document?

13 A I believe it was a single-page document.

14 Q And do you recall seeing any other documents
15 from the Pennsylvania State Police?

16 A I don't recall. I signed that one document that
17 he told me was a receipt for the thousand dollars.

18 Q Okay. And was it your understanding when you
19 received the thousand dollars that you had any other
20 obligations or responsibilities in connection with your
21 cooperation or any assistance to the Pennsylvania State
22 Police?

23 A There was -- I don't have any obligations or
24 responsibilities to the Pennsylvania State Police.

25 Q Do you have an understanding of what a source

1 is?

2 A Could you repeat the question, please?

3 Q Sure. Do you have an understanding of what a
4 source is?

5 A A source would I guess would be somebody that,
6 you know, somebody or some way or something that gives
7 information.

8 Q Okay. And to your knowledge, currently, it's
9 your understanding that you are not an ongoing source of
10 information for the Pennsylvania State Police?

11 A I don't believe that I am an ongoing source for
12 the Pennsylvania State Police.

13 Q You indicated that you after January 2014, you
14 have seen Trooper Fidler. Is that correct?

15 A After what date, sir?

16 Q After January 2014, you have seen Trooper
17 Fidler. Is that correct?

18 A Yes.

19 Q Okay. And you have seen him at the YRC facility
20 in Carlisle, Pennsylvania?

21 A Yes.

22 Q And you said you've interacted with Trooper
23 Fidler?

24 A Yes.

25 Q Okay. Can you describe those interactions?

1 A Just casual conversation. I mean hi. Just -- I
2 mean I can't remember any specific content. It's just,
3 you know, casual conversation. Most of the time he was
4 walking around with one of the dock supervisors or with
5 one of the terminal managers.

6 Q And have you ever walked around with Trooper
7 Fidler since January 2014 at the YRC facility?

8 A No. I never walked around with him.

9 Q Prior to April 17, 2013, did anyone from the
10 Pennsylvania State Police tell you that you might receive
11 a reward for finding illegal narcotics?

12 A Sir, I didn't catch the date in your question.

13 Q Prior to April 17, 2013, the day that you found
14 the shipment at issue in this case, did anyone from the
15 Pennsylvania State Police tell you that you might receive
16 a reward for the discovery of narcotics?

17 A No.

18 MR. MITCHELL: Court's indulgence.

19 THE COURT: All right.

20 (Pause.)

21 BY MR. MITCHELL

22 Q And did you open the package on April 17, 2013
23 with the anticipation that you might receive a reward for
24 finding illegal narcotics?

25 A No.

1 MR. MITCHELL: Nothing further.

2 THE COURT: Any brief redirect?

3 MR. RAVENELL: Yes, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. RAVENELL:

6 Q Mr. Arrowood, you told us several times today
7 that why you said you opened this package about this
8 density and the weight issues. So I'm not going to spend
9 a lot of time on that. But you were shown by Mr. Mitchell
10 a section of your prior testimony.

11 MR. RAVENELL: Bring up page 147, lines 1
12 through 9.

13 BY MR. RAVENELL:

14 Q Now this is after you had told Mr. Mitchell on
15 the previous page that you did this three-second
16 inspection and why you opened the package based on this
17 density and weight issue. And he asked you this question.
18 "And after you identified this particular discrepancy
19 which was weight discrepancy that you talked about, I
20 believe you testified that you also noticed something else
21 and that was the description appeared to be incorrect. Is
22 that right? And you said basically, I believe that I saw
23 the word "wheel" on the box. All right. I can't be a
24 hundred percent certain on -- it's on one of the boxes. I
25 can't be a hundred percent certain on that. I opened the

1 carton, you know, based on my three-second evaluation."

2 Now you would agree that even when asked
3 that question today, you said you can't be a hundred
4 percent certain that you ever saw a wheel on any box.
5 Correct?

6 A That is correct.

7 Q And if you are not sure that you saw a wheel on
8 a box, that's not the reason you opened the box. You
9 already told us why you opened the box. Correct?

10 A Yes.

11 Q Right. And that was because of the density
12 weight that you told us about and that you in fact wrote
13 down back in November of 2013. Correct?

14 A Correct.

15 Q All right. Now you told us that -- strike that.
16 MR. RAVENELL: May I approach the witness, Your
17 Honor?

18 BY MR. RAVENELL:

19 Q Let me show you three documents. If I can have
20 them marked as Government's Exhibits 18, 19 and 20. I
21 want to show you these three documents.

22 THE COURT: And they are already in. Is that
23 right?

24 MR. RAVENELL: I don't believe they're in.
25 They're not in, judge.

1 THE COURT: Only for identification.

2 BY MR. RAVENELL:

3 Q Would you look at these three documents, sir?

4 And while you're looking, you've been talking about the
5 document that you would see, kind of the waybill. Are on
6 any of those three documents the waybill?

7 A This is the bill of lading --

8 THE COURT: What's the document number?

9 BY MR. RAVENELL:

10 Q Which number is that?

11 A I'm sorry, sir.

12 Q 18 is the bill of lading?

13 A That's the bill of lading.

14 Q Okay. Tell me what number you're referring to
15 at the top.

16 A Number 19, sir.

17 Q Okay. Number 19 is -- what were you going to
18 say about it?

19 A Appears to be a delivery receipt.

20 Q And the fact that at the bottom, it says
21 delivery receipt --

22 A It says delivery receipt.

23 Q -- that's a good hint?

24 A Yes.

25 Q Okay.

1 A And this looks like what a document that it may
2 have traveled under or that it did travel under.

3 Q Is that Exhibit 20 is what you would see?

4 A Exhibit 20 would be what we would call a
5 waybill.

6 Q The waybill.

7 A Yes, sir.

8 Q Okay. Now the Exhibit 20 which would be the
9 waybill that you talked about, there are several places on
10 there where it says dock. Isn't that correct? I've
11 highlighted it on mine. See where it says dock, dock,
12 dock. At least three places where it says dock. Do you
13 see that?

14 A Um-hum.

15 Q Okay, sir.

16 THE COURT: Does um-hum mean yes?

17 THE WITNESS: I'm sorry. Yes. Yes.

18 BY MR. RAVENELL:

19 Q And it shows the freight date for here is
20 4-11-13?

21 A Yes.

22 Q Okay. And it shows that it shipped from O.C.
23 Box Zone with an address in California --

24 A Yes.

25 Q -- to Auto Tech at an address in Beltsville,

1 Maryland?

2 A Yes.

3 Q Now several places on this document -- let's
4 back up for a second. You told us that -- let me just
5 have this for a second. And where is the other document?
6 Can I see the other two for a minute?

7 THE COURT: So 18, 19 and 20 have been testified
8 to. They are going to admit them. Any problem with that?

9 MR. MITCHELL: No, Your Honor. They're marked
10 as Government's Exhibits 18, 19 and 20. So I don't know
11 exactly how you want to mark them.

12 THE COURT: Well, they will be Government
13 Exhibits 18, 19, 20.

14 MR. RAVENELL: I don't care if it's listed as
15 government's exhibits --

16 THE COURT: Well, we already have 18, 19, 20.
17 So this is going to be, you know, like playing --

18 MR. MITCHELL: We do not object to our own
19 exhibits, Your Honor.

20 THE COURT: Okay. But you want to make sure
21 they are authentic before you -- go ahead.

22 BY MR. RAVENELL:

23 Q Now earlier you were asked by Mr. Mitchell about
24 what you would see or not see on the waybill. Do you
25 remember that series of questions?

1 A Yes.

2 Q And he was asking you about whether you had seen
3 anything that suggests that there was, you know,
4 guaranteed delivery and you said that's something that you
5 would not see or notice on a waybill?

6 A That's not something that I would take notice
7 to. No.

8 Q Okay. And you have seen waybills thousands of
9 times?

10 A Yes.

11 Q And you look at these waybills to get
12 information. Correct?

13 A Yes.

14 Q And one of the things that the waybill tells you
15 is the origin of the packaging?

16 A Yes.

17 Q In fact you told us that that's one thing you
18 would look at to see the origin. Correct?

19 A Yes.

20 Q And on this particular document, we're talking
21 about when I showed it to you, there was reference to the
22 O.C. Box Zone out of Orange, California?

23 A Yes.

24 Q And that it's being shipped to a location in
25 Beltsville, Maryland?

1 A Yes.

2 Q You told us that you would also look to see in
3 addition to the origin where the package was going.
4 Correct?

5 A Correct.

6 Q All right. Now in this document, Exhibit 20,
7 tell me how many times it's referenced that this is either
8 a guaranteed delivery or time for delivery or a
9 time-sensitive delivery?

10 A It says here --

11 Q Here at the top left hand corner?

12 A Time-based shipment. Guaranteed P.M.

13 Q Top right hand corner, what does it say?

14 A Top right hand corner. Guaranteed P.M. G -- I
15 can't make out the rest of it.

16 Q Well, let's read the whole thing. It says
17 guaranteed P.M. What, GDL? Deliver by 4-18. 1700.
18 Correct?

19 A Correct.

20 Q All right. And where else does it mention that
21 it's time sensitive?

22 A In those two places.

23 Q Nowhere else?

24 A Well, here on -- it says it again right here and
25 right here.

1 Q Right in the middle of the document?

2 A Can I fold this?

3 Q You can fold it. But I'm asking where the --
4 but if you can answer my question?

5 A I just want to illustrate how we see them on the
6 dock, sir.

7 Q But could you answer my question? Then I'll let
8 you illustrate. Does there other places that it appear
9 that indicates that this on the document that it's time
10 sensitive or a guaranteed delivery?

11 A It's on the middle of this copy.

12 Q Okay. And has again the time-based shipment and
13 it has information that is guaranteed delivered by 4-18 at
14 5:00 p.m.; is that correct, or 1700?

15 A Yes, sir. At the top and on the middle of this
16 photocopy.

17 Q And you want to describe to me that the document
18 is folded when you see it?

19 A As I see it on the dock.

20 Q Right. You can do that.

21 A This is a perforation here.

22 Q Got you.

23 A It's page 1 and page 2. And that's what I see
24 generally when I'm looking at a document. And I'm looking
25 at this here, the address information, this here, the

1 class that it's going at, the weight and the volume of the
2 shipment.

3 Q Okay. All right. So just to make sure we're
4 clear, the document as I'm holding it now is one sheet of
5 paper, full length, has at the top that it's a time-based
6 shipment and that it's guaranteed delivery by 4-18, 5:00,
7 1700. Correct?

8 A Correct.

9 Q And then if we fold it here, it would show that
10 you would see one-half of that information of the paper?

11 A That's what I would be looking at. Yes, sir.

12 Q So at least on two locations on the document is
13 what you would see, there is a reference, one, that it's
14 time-based shipment and the other that it's a guaranteed
15 delivery by a certain time and a certain date?

16 A Yes, sir.

17 Q Okay.

18 MR. RAVENELL: Court's indulgence.

19 (Pause.)

20 BY MR. RAVENELL:

21 Q And I asked you earlier about a reference of
22 whether you were aware that there's information the
23 shipper had paid extra to have this particular parcel
24 delivered and you said that you did not have that
25 information?

1 A I'm saying that I don't know that information.
2 It may say -- I don't know what they pay. I don't have
3 visibility over what they pay like that, you know, unless
4 I look it up prior.

5 Q So when you are told that it's a guaranteed
6 delivery and time-sensitive delivery, you're telling the
7 Court that you are not then in tuned that this means that
8 the person is paying extra for that guaranteed delivery?

9 A I assume that they're paying extra, but I'm
10 not -- pricing is not my area.

11 Q Well, whether it's your area or not, you're not
12 blind. Correct?

13 A No. I am not blind, sir.

14 Q And you are an experienced worker or dock worker
15 on the dock seven years reviewing these waybills.
16 Correct?

17 A Correct.

18 Q All right. And if you ever had any question
19 about what guaranteed delivery, on time delivery, times of
20 delivery meant, you would have asked if you had some
21 question what it really meant, wouldn't you?

22 A No. Not really because it doesn't pertain to
23 what I do.

24 Q Oh, you just would say I don't care.

25 MR. MITCHELL: Objection.

1 THE WITNESS: Exactly.

2 THE COURT: Overruled.

3 BY MR. RAVENELL:

4 Q And I should accept that because you said it?

5 MR. MITCHELL: Objection.

6 THE WITNESS: No. Not because --

7 THE COURT: Sustained. Sustained. Next
8 question, please.

9 MR. RAVENELL: Thank you, Your Honor. No
10 further questions.

11 THE COURT: All right. May the witness be
12 excused?

13 MR. RAVENELL: Yes.

14 MR. MITCHELL: Yes, Your Honor.

15 THE COURT: All right. Mr. Arrowood, you are
16 free to go, sir. Please don't discuss your testimony with
17 anyone because we have not yet finished the hearing. All
18 right, sir?

19 THE WITNESS: Yes, sir. Mr. Ravenell, do you
20 need me again tomorrow or --

21 THE COURT: No. You're free to go.

22 MR. RAVENELL: The Court just gave you
23 instructions, sir.

24 THE COURT: No. You're free to go.

25 THE WITNESS: Thank you, sir.

1 MR. RAVENELL: Your Honor, at this time, we have
2 no -- I'm sorry.

3 THE COURT: Just wanted to find out status-wise
4 where we were. All right. The witness is out of the
5 courtroom.

6 MR. RAVENELL: Your Honor, a couple of things.
7 One is with regards to witnesses, we obviously have
8 Mr. Brandman who will be here available on the 15th. We
9 may have one other witness who will be very brief. That
10 is Mr. Gordon who interviewed Mr. Wood. That would be
11 very brief.

12 THE COURT: So that would be tomorrow, sir?

13 MR. RAVENELL: We could do it tomorrow. I would
14 think it makes sense to bring him back on the 15th. If
15 all we have is that one witness tomorrow, Mr. Gordon, I
16 would not think we need to come back for that brief
17 testimony. I could fit him in on the 15th.

18 THE COURT: My only concern -- is the 15th a
19 Thursday or Friday?

20 MR. RAVENELL: Thursday.

21 THE COURT: Thursday.

22 MR. RAVENELL: So we have the whole day as I
23 understand. The following day was that we only have
24 until -- am I wrong? We don't have the whole day?

25 THE COURT: So we can certainly finish up the

1 testimony if we start at 9. Possibly even finish up the
2 testimony by mid-day.

3 MR. RAVENELL: Right.

4 THE COURT: And then --

5 MR. RAVENELL: And I would make sure that
6 Mr. Gordon will be available for that Friday. If we're
7 going to be back anyway on the 16th, I would still have
8 him available. If we are only going to have him tomorrow,
9 I think it would be kind of a waste of the Court's time
10 and ours to come back just for a witness of 20 minutes or
11 so.

12 THE COURT: I understand. And I don't disagree
13 with that. So we would then wrap up all the testimony to
14 include the expert, Techno Connections, crossing our
15 fingers it all works. Then that would be Thursday, we
16 could hear argument on Thursday to the extent that we
17 don't get into the time for the sentencing. Finish up on
18 Friday and have a ruling on Friday. Is that what we're
19 talking about, Friday by noon because I have to leave by
20 noon?

21 MR. RAVENELL: Yes.

22 THE COURT: That works if that's what you're
23 proposing.

24 MR. RAVENELL: Great.

25 THE COURT: What about the United States? Does

1 the United States have witnesses?

2 MR. FOREMAN: Actually, we do, Your Honor. And
3 that was one thing we were just going to remind the Court.
4 We actually do have one witness that we would like to get
5 to today since she flew in from out of state. We've got
6 another potential witness for tomorrow which would be our
7 case agent on a fairly discreet issue. But we do expect
8 that we would have something for tomorrow as well.

9 THE COURT: Well, that's fine with me. But
10 let's talk about this because it's now 10 minutes to 4.
11 We don't typically go much later than 4. Who is the
12 witness you want to call today? And can we call that
13 witness first thing tomorrow morning?

14 MR. MITCHELL: She is available tomorrow
15 morning, Your Honor.

16 THE COURT: All right. I think rather than
17 start a witness, get them on the stand. If you do any
18 kind of examination, it's going to take 30 to 45 minutes.
19 Mr. Ravenell is going to want to cross and then we are not
20 going to get through unless you are going to ask four
21 questions and he's going to ask two questions on cross.

22 MR. MITCHELL: I imagine that the government's
23 direct, Your Honor, might be 20 minutes long. 15, 20
24 minutes.

25 THE COURT: All right. Well, I appreciate that.

1 But I don't want to start it and then break particularly
2 since I have conference calls starting in five minutes
3 that I would have to cancel and then reschedule if I would
4 otherwise do it.

5 So let's start tomorrow. We have the one
6 witness that flew in from out of town. The case agent
7 will be the next witness. Is that correct?

8 MR. MITCHELL: Yes, Your Honor.

9 THE COURT: And no other witnesses for the
10 government?

11 MR. MITCHELL: That is correct.

12 THE COURT: Okay. So we'll finish whatever we
13 do then and then we'll recess until --

14 MR. RAVENELL: Then I'll see if we can have
15 Mr. Gordon available tomorrow, judge, as well.

16 THE COURT: Yes. You might as well.

17 MR. RAVENELL: I'll try to do that.

18 THE COURT: That way we get that out of the way
19 and we only have then the expert to complete and then we
20 can figure out argument and ruling on that.

21 MR. RAVENELL: Your Honor, can we get a proffer
22 from the government as to these two witnesses? I have no
23 clue what this first person is going to talk about or the
24 second? The government sent us an email a week or more
25 ago asking whether we would stipulate that this person,

1 Ms. Gage, would be a custodian of records for YRC. Both
2 defendants have stipulated. The government is announcing
3 they're still going to call the witness which is certainly
4 their right. But the question is can we get a proffer as
5 to what she will be testifying to since I, quite frankly,
6 have no clue.

7 THE COURT: Mr. Mitchell, are you prepared
8 without spilling the beans just giving some idea about the
9 general subject matter of her testimony?

10 MR. MITCHELL: Yes, Your Honor. The witness'
11 name is Michelle Gage.

12 THE COURT: Gage?

13 MR. MITCHELL: Yes. Correct. She was
14 designated as the records custodian. She would be able to
15 introduce the documents that defense counsel obviously
16 introduced today.

17 THE COURT: So we don't need her for that
18 because they're already in.

19 MR. MITCHELL: She could also testify, Your
20 Honor, about some pricing. The way in which YRC does
21 pricing.

22 THE COURT: This is fine. No one is going to
23 prevent you from examining this witness to produce for the
24 record any information you want. But so it sounds like
25 there's not a whole lot.

1 MR. RAVENELL: It doesn't sound like it. And,
2 Your Honor, on the second witness, the discreet matter?

3 THE COURT: The case agent.

4 MR. FOREMAN: Your Honor, one of the issues that
5 at least we've flagged for the defense was the fact that
6 we now have the documents from O.C. Box Zone. So we are
7 actually going to I think match up an issue that Your
8 Honor raised at one point in time about we know who the --
9 we know YRC's part and what they produced.

10 THE COURT: Objection. Quick question if we
11 could. Have those been given to Mr. Ravenell?

12 MR. FOREMAN: Yes, they have, Your Honor.

13 MR. RAVENELL: Yes. We have received
14 documents -- I'm sorry. We have received documents. The
15 ones that we obviously introduced and some documents from
16 Box Zone. So those are the -- if that's the universe of
17 the documents, we do have them.

18 THE COURT: So those are the documents about
19 which this second witness will testify?

20 MR. FOREMAN: We also have some information,
21 some documents that relate to evidence that was seized
22 during a search warrant that we are planning to introduce
23 through the case agent.

24 MR. RAVENELL: If we could just know what those
25 are, so we're not --

1 THE COURT: Again documents -- have those
2 documents already been produced to the defense?

3 MR. FOREMAN: Yes, they have, Your Honor.

4 MR. RAVENELL: If we can just be told what they
5 are so we're not spending time --

6 THE COURT: You all can do that without being on
7 the record --

8 MR. RAVENELL: Sure.

9 THE COURT: I would very much like to see the
10 O.C Box Zone documents tonight if you have an extra copy
11 for the Court. You have already received those?

12 MR. RAVENELL: I have, judge.

13 THE COURT: Okay.

14 MR. RAVENELL: And we're not objecting to them
15 introducing it without bringing the person in.

16 THE COURT: That's fine. It sounds like it may
17 even be less because it's just pricing information.

18 MR. RAVENELL: Your Honor, one last thing. I
19 can check with the government, too. We received a letter
20 from the government on April the 17, 2014 that would deal
21 with Mr. Arrowood. And the government has a paragraph
22 that said the following: "Although the government does
23 not believe it to be relevant, please be advised that the
24 government recently learned that on or about January 27,
25 2014, YRC Weights and Inspection Coordinator Tommy

1 Arrowood was signed up as a source and was provided a sum
2 of money by the Pennsylvania State Police.

3 In addition, after the hearing on January 13,
4 Pennsylvania State Police conducted training at YRC's
5 facility in Carlisle, Pennsylvania." I'd like that
6 information to become part of the record.

7 THE COURT: Any problem with that disclosure
8 being part of the record?

9 MR. MITCHELL: Well, Your Honor, there's been
10 testimony on both of these points today by witnesses who
11 were actually involved in this. The government's
12 representations aside are, the government would argue are
13 relevant on this point.

14 THE COURT: Well, the source of the information
15 is clear. I think that one of the -- one of the points
16 Mr. Ravenell would be making is is that one man's source
17 is another person's reward and he's going to be arguing
18 what weight of the evidence should be. We have a trooper
19 who said this is what I understood the transaction would
20 be. We have a witness who understood it differently.

21 The characterization that the government has, I
22 have no reason to doubt that would be what they would be
23 arguing anything differently when you argue the
24 significance of all this evidence before I rule. But it
25 seems to me that -- that, Mr. Ravenell, you are not

1 raising at least at this time any issue about timing of
2 disclosure or --

3 MR. RAVENELL: No.

4 THE COURT: So it's not one of the discovery
5 disclosure type of things. So the record is clear that
6 the disclosure made to the defendant was that Mr. Arrowood
7 was contacted by the Pennsylvania State Police for
8 purposes of being a source and received a payment in that
9 connection. Is that right?

10 MR. RAVENELL: In fact was signed up as a
11 source, judge, more particularly.

12 MR. MITCHELL: Well, Your Honor, the information
13 that was disclosed in that letter was obviously provided
14 to the government from Trooper Fidler. So it's consistent
15 with his testimony today. The government did not speak
16 with Mr. Arrowood prior to today's hearing as he testified
17 as well.

18 And so the prosecution, the U.S. Attorney's
19 office has, you know, one side of the story,
20 representations made by Trooper Fidler to the government
21 prior to today's hearing which were disclosed to defense
22 counsel. Trooper Fidler testified to those. The U.S.
23 Attorney's Office has not seen the documents associated
24 with this transaction. And the testimony is what it is,
25 Your Honor. I cannot say standing here today whether

1 Trooper Fidler or whether Mr. Arrowood is correct in their
2 testimony --

3 THE COURT: Fair enough. But the key is is that
4 it's certainly, the information that we heard from the
5 Trooper today was consistent with the information made
6 known to the United States and which prompted them to send
7 the letter. Is that correct?

8 MR. MITCHELL: Correct, Your Honor.

9 THE COURT: Okay. So the record is clear on
10 that.

11 MR. RAVENELL: Thank you, judge.

12 THE COURT: And even if it's not, my notes and
13 memory are still able to sit up and take nourishment. All
14 right. Anything else today?

15 MR. RAVENELL: Nothing else today, Your Honor.

16 THE COURT: All right. Well, you all have a
17 good evening.

18 MR. RAVENELL: And what time, judge, tomorrow?

19 THE COURT: If we could be ready to roll at 9
20 a.m., that would be great. Sooner in, sooner out. And
21 you all have worked hard and that would be good. All
22 right, folks. Thanks. Have a good evening.

23 (Proceedings concluded.)
24
25

CERTIFICATE OF REPORTER

I, Lisa K. Bankins, an Official Court Reporter for the United States District Court for the District of Maryland, do hereby certify that I reported, by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the motions hearing in the case of the United States of America versus Leonaldo Harris and Jennifer Sims, Criminal Action Number PWG-13-0202, in said court on the 29th day of April, 2014.

I further certify that the foregoing 237 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, together with the backup tape of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this 7th day of May, 2014.

Lisa K. Bankins

Lisa K. Bankins
Official Court Reporter

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